

**Last Updated September 19, 2018**

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New Jersey Statutes Annotated

Title 13. Conservation and Development--Parks and Reservations (Refs & Annos)

Chapter 8C. Garden State Preservation Trust (Refs & Annos)

**N.J.S.A. 13:8C-1**

**13:8C-1. Short title**

Sections 1 through 42 of this act shall be known, and may be cited, as the "Garden State Preservation Trust Act."

**13:8C-2. Legislative findings**

The Legislature finds and declares that enhancing the quality of life of the citizens of New Jersey is a paramount policy of the State; that the acquisition and preservation of open space, farmland, and historic properties in New Jersey protects and enhances the character and beauty of the State and provides its citizens with greater opportunities for recreation, relaxation, and education; that the lands and resources now dedicated to these purposes will not be adequate to meet the needs of an expanding population in years to come; that the open space and farmland that is available and appropriate for these purposes will gradually disappear as the costs of preserving them correspondingly increase; and that it is necessary and desirable to provide funding for the development of parks and other open space for recreation and conservation purposes.

The Legislature further finds and declares that agriculture plays an integral role in the prosperity and well-being of the State as well as providing a fresh and abundant supply of food for its citizens; that much of the farmland in the State faces an imminent threat of permanent conversion to non-farm uses; and that the retention and development of an economically viable agricultural industry is of high public priority.

The Legislature further finds and declares that there is an urgent need to preserve the State's historic heritage to enable present and future generations to experience, understand, and enjoy the landmarks of New Jersey's role in the birth and development of this nation; that the restoration and preservation of properties of historic character and importance in the State is central to meeting this need; and that a significant number of these historic properties are located in urban centers, where their restoration and preservation will advance urban revitalization efforts of the State and local governments.

The Legislature further finds and declares that there is growing public recognition that the quality of life, economic prosperity, and environmental quality in New Jersey are served by the protection and timely preservation of open space and farmland and better management of the lands, resources, historic properties, and recreational facilities that are already under public ownership or protection; that the protection and preservation of New Jersey's water resources, including the quality and quantity of the State's limited water supply, is essential to the quality of life and the economic health of the citizens of the State; that the acquisition of flood-prone areas is in the best interests of the State to prevent the loss of life and property; that the preservation of the existing diversity of animal and plant species is essential to sustaining both the environment and the economy of the Garden State, and the conservation of adequate habitat for endangered, threatened, and other rare species is necessary to preserve this biodiversity; that there is a need to establish a program to serve as the successor to the programs established by the "Green Acres, Farmland and Historic Preservation, and Blue Acres Bond Act of 1995," P.L.1995, c. 204, nine previous similar

bond acts enacted in 1961, 1971, 1974, 1978, 1981, 1983, 1987, 1989, and 1992, and various implementing laws; and that any such successor program should support implementation of Statewide policies, goals, and strategies concerned with and emphasizing the importance of preserving open space, sensitive environmental areas, critical wildlife habitat, farmland, and historic resources.

The Legislature further finds and declares that the citizens of the State have indicated their very strong support for open space, farmland, and historic preservation efforts not only in the past approval of State Green Acres bond acts and numerous county and municipal dedicated funding sources for those purposes, but most recently in 1998 with the approval of an amendment to the New Jersey Constitution that provides for a stable and dedicated source of funding for those purposes for the next decade and beyond.

The Legislature therefore determines that it is in the public interest to preserve as much open space and farmland, and as many historic properties, as possible within the means provided by the 1998 constitutional amendment; that of the open space preserved, as much of those lands as possible shall protect water resources and preserve adequate habitat and other environmentally sensitive areas; that, in recognition of the recommendations of the Governor's Council on New Jersey Outdoors, it is a worthy goal to preserve one million more acres of open space and farmland in the Garden State in the next decade to protect the quality of life for New Jersey residents; and that, to accomplish that goal, it is also in the public interest to create the Garden State Preservation Trust and to enable it to raise revenue for those purposes, and to delegate to it such other duties and responsibilities as shall be necessary to further the purposes of the constitutional amendment and to advance the policies and achieve the goals set forth in this preamble.

### **13:8C-3. Definitions**

As used in sections 1 through 42 of this act:<sup>1</sup>

“Acquisition” or “acquire” means the obtaining of a fee simple or lesser interest in land, including but not limited to a development easement, a conservation restriction or easement, or any other restriction or easement permanently restricting development, by purchase, installment purchase agreement, gift, donation, eminent domain by the State or a local government unit, or devise; except that any acquisition of lands by the State for recreation and conservation purposes by eminent domain shall be only as authorized pursuant to section 28 of P.L.1999, c. 152 (C.13:8C-28);

“Bonds” means bonds issued by the trust pursuant to this act;

“Commissioner” means the Commissioner of Environmental Protection;

“Committee” means the State Agriculture Development Committee established pursuant to section 4 of P.L.1983, c. 31 (C.4:1C-4);

“Constitutionally dedicated moneys” means any moneys made available pursuant to Article VIII, Section II, paragraph 7 of the State Constitution or through the issuance of bonds, notes or other obligations by the trust, as prescribed by Article VIII, Section II, paragraph 7 of the State Constitution and P.L.1999, c. 52 (C.13:8C-1 et seq.), or any moneys from other sources deposited in the trust funds established pursuant to sections 19, 20, and 21 of P.L.1999, c. 152 (C.13:8C-19, C.13:8C-20 and C.13:3C-21), and appropriated by law, for any of the purposes set forth in Article VIII, Section II, paragraph 7 of the State Constitution or this act;

“Convey” or “conveyance” means to sell, donate, exchange, transfer, or lease for a term of 25 years or more;

“Cost” means the expenses incurred in connection with: all things deemed necessary or useful and convenient for the acquisition or development of lands for recreation and conservation purposes, the acquisition of development easements or fee simple titles to farmland, or the preservation of historic properties, as the case may be; the execution of any agreements or franchises deemed by the Department of Environmental Protection, State Agriculture Development Committee, or New Jersey Historic Trust, as the case may be, to be necessary or useful

and convenient in connection with any project funded in whole or in part using constitutionally dedicated moneys; the procurement or provision of appraisal, archaeological, architectural, conservation, design, engineering, financial, geological, historic research, hydrological, inspection, legal, planning, relocation, surveying, or other professional advice, estimates, reports, services, or studies; the purchase of title insurance; the undertaking of feasibility studies; the establishment of a reserve fund or funds for working capital, operating, maintenance, or replacement expenses and for the payment or security of principal or interest on bonds, as the Director of the Office of Management and Budget in the Department of the Treasury may determine; and reimbursement to any fund of the State of moneys that may have been transferred or advanced therefrom to any fund established by this act, or any moneys that may have been expended therefrom for, or in connection with, this act;

“Department” means the Department of Environmental Protection;

“Development” or “develop” means, except as used in the definitions of “acquisition” and “development easement” in this section, any improvement made to a land or water area designed to expand and enhance its utilization for recreation and conservation purposes, and shall include the construction, renovation, or repair of any such improvement, but shall not mean shore protection or beach nourishment or replenishment activities;

“Development easement” means an interest in land, less than fee simple title thereto, which interest represents the right to develop that land for all nonagricultural purposes and which interest may be transferred under laws authorizing the transfer of development potential;

“Farmland” means land identified as having prime or unique soils as classified by the Natural Resources Conservation Service in the United States Department of Agriculture, having soils of Statewide importance according to criteria adopted by the State Soil Conservation Committee, established pursuant to R.S.4:24-3, or having soils of local importance as identified by local soil conservation districts, and which land qualifies for differential property taxation pursuant to the “Farmland Assessment Act of 1964,” P.L.1964, c. 48 (C.54:4-23.1 et seq.), and any other land on the farm that is necessary to accommodate farm practices as determined by the State Agriculture Development Committee;

“Farmland preservation,” “farmland preservation purposes” or “preservation of farmland” means the permanent preservation of farmland to support agricultural or horticultural production as the first priority use of that land;

“Garden State Farmland Preservation Trust Fund” means the Garden State Farmland Preservation Trust Fund established pursuant to section 20 of this act;

“Garden State Green Acres Preservation Trust Fund” means the Garden State Green Acres Preservation Trust Fund established pursuant to section 19 of this act;

“Garden State Historic Preservation Trust Fund” means the Garden State Historic Preservation Trust Fund established pursuant to section 21 of this act;

“Green Acres bond act” means: P.L.1961, c. 46; P.L.1971, c. 165; P.L.1974, c. 102; P.L.1978, c. 118; P.L.1983, c. 354; P.L.1987, c. 265; P.L.1989, c. 183; P.L.1992, c. 88; P.L.1995, c. 204; and any State general obligation bond act that may be approved after the date of enactment of this act for the purpose of providing funding for the acquisition or development of lands for recreation and conservation purposes or for farmland preservation purposes;

“Historic preservation,” “historic preservation purposes,” or “preservation of historic properties” means any work relating to the conservation, improvement, interpretation, preservation, protection, rehabilitation, renovation, repair, restoration, or stabilization of any historic property, and shall include any work related to providing access thereto for disabled or handicapped persons;

“Historic property” means any area, building, facility, object, property, site, or structure approved for inclusion, or which meets the criteria for inclusion, in the New Jersey Register of Historic Places pursuant to P.L.1970, c. 268 (C.13:1B-15.128 et seq.);

“Indoor recreation” means active recreation that otherwise is or may be pursued outdoors but, for reasons of

extending the season or avoiding inclement weather, is or may be pursued indoors within a fully or partially enclosed building or other structure, and includes basketball, ice skating, racquet sports, roller skating, swimming, and similar recreational activities and sports as determined by the Department of Environmental Protection;

“Land” or “lands” means real property, including improvements thereof or thereon, rights-of-way, water, lakes, riparian and other rights, easements, privileges and all other rights or interests of any kind or description in, relating to, or connected with real property;

“Local government unit” means a county, municipality, or other political subdivision of the State, or any agency, authority, or other entity thereof; except, with respect to the acquisition and development of lands for recreation and conservation purposes, “local government unit” means a county, municipality, or other political subdivision of the State, or any agency, authority, or other entity thereof the primary purpose of which is to administer, protect, acquire, develop, or maintain lands for recreation and conservation purposes;

“New Jersey Historic Trust” means the entity established pursuant to section 4 of P.L.1967, c. 124 (C.13:1B-15.111);

“Notes” means the notes issued by the trust pursuant to this act;

“Permitted investments” means any of the following securities:

(1) Bonds, debentures, notes or other evidences of indebtedness issued by any agency or instrumentality of the United States to the extent such obligations are guaranteed by the United States or by another such agency the obligations (including guarantees) of which are guaranteed by the United States;

(2) Bonds, debentures, notes or other evidences of indebtedness issued by any corporation chartered by the United States, including, but not limited to, Governmental National Mortgage Association, Federal Land Banks, Federal Home Loan Mortgage Corporation, Federal National Mortgage Association, Federal Home Loan Banks, Federal Intermediate Credit Banks, Banks for Cooperatives, Tennessee Valley Authority, United States Postal Service, Farmers Home Administration, Resolution Funding Corporation, Export-Import Bank, Federal Financing Bank and Student Loan Marketing Association;

(3) Bonds, debentures, notes or commercial paper rated in the highest two rating categories without regard to rating subcategories (derogation) by all nationally recognized investment rating agencies or by a nationally recognized investment rating agency if rated by only one nationally recognized investment rating agency;

(4) Repurchase agreements or investment agreements issued by (i) a commercial bank or trust company or a national banking association, each having a capital stock and surplus of more than \$100,000,000, or (ii) an insurance company with the highest rating provided by a nationally recognized insurance company rating agency, or (iii) a broker/dealer, or (iv) a corporation; provided that the credit of such commercial bank or trust company or national banking association or insurance company or broker/dealer or corporation, as the case may be, is rated (or, in the case of a broker/dealer or corporation, whose obligations thereunder are guaranteed by a commercial bank or trust company or a national banking association or insurance company with the highest rating provided by a nationally recognized insurance company rating agency or corporation whose credit is rated) not lower than the “AA” category without regard to rating subcategories (derogation) of any two nationally recognized investment rating agencies then rating the State; provided that any such agreement shall provide for the investment of funds and shall be collateralized by obligations described in paragraph 1 or paragraph 2 or paragraph 3 above at a level of at least one hundred and two (102) percent in principal amount of those obligations;

“Pinelands area” means the pinelands area as defined pursuant to section 3 of P.L.1979, c. 111 (C.13:18A-3);

“Pinelands regional growth area” means a regional growth area established pursuant to the pinelands comprehensive

management plan adopted pursuant to P.L.1979, c. 111 (C.13:18A-1 et seq.);

“Project” means all things deemed necessary or useful and convenient in connection with the acquisition or development of lands for recreation and conservation purposes, the acquisition of development easements or fee simple titles to farmland, or the preservation of historic properties, as the case may be;

“Qualifying open space referendum county” means any county that has: (1) approved and implemented, and is collecting and expending the revenue from, an annual levy authorized pursuant to P.L.1997, c. 24 (C.40:12-15.1 et seq.) for an amount or at a rate equivalent to at least one half of one cent per \$100 of assessed value of real property, or for an amount or at a rate established by the county and in effect as of April 1, 1999, whichever is greater; or (2) adopted an alternative means of funding for the same or similar purposes as an annual levy, which the Department of Environmental Protection, in consultation with the committee and the New Jersey Historic Trust, approves to be stable and reasonably equivalent in effect to an annual levy;

“Qualifying open space referendum municipality” means any municipality that has: (1) approved and implemented, and is collecting and expending the revenue from, an annual levy authorized pursuant to P.L.1997, c. 24 (C.40:12-15.1 et seq.) for an amount or at a rate equivalent to at least one half of one cent per \$100 of assessed value of real property, or for an amount or at a rate established by the municipality and in effect as of April 1, 1999, whichever is greater; or (2) adopted an alternative means of funding for the same or similar purposes as an annual levy, which the Department of Environmental Protection, in consultation with the committee and the New Jersey Historic Trust, approves to be stable and reasonably equivalent in effect to an annual levy;

“Qualifying tax exempt nonprofit organization” means a nonprofit organization that is exempt from federal taxation pursuant to section 501 (c)(3) of the federal Internal Revenue Code, 26 U.S.C. s.501 (c)(3), and which qualifies for a grant pursuant to section 27, 39, or 41 of P.L.1999, c. 152 (C.13:8C-27, C.13:3C-39, or C.13:8C-41);

“Recreation and conservation purposes” means the use of lands for beaches, biological or ecological study, boating, camping, fishing, forests, greenways, hunting, natural areas, parks, playgrounds, protecting historic properties, water reserves, watershed protection, wildlife preserves, active sports, or a similar use for either public outdoor recreation or conservation of natural resources, or both; and

“Trust” means the Garden State Preservation Trust established pursuant to section 4 of P.L.1999, c. 152 (C.13:8C-4).

#### Footnotes

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N.J.S.A. §§ 13:8C-1 to 13:8C-42.

### **13:8C-4. Trust established; members**

a. There is hereby established in but not of the Department of the Treasury a public body corporate and politic, with corporate succession, to be known as the “Garden State Preservation Trust.” For the purpose of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the trust is hereby allocated within the Department of the Treasury, but notwithstanding that allocation, the trust shall be independent of any supervision or control by that department or by any board or officer thereof. The trust is hereby constituted as an instrumentality of the State, exercising public and essential governmental functions, no part of whose revenues shall accrue to the benefit of any individual, and the exercise by the trust of the powers conferred by this act shall be deemed and held to be an essential governmental function of the State.

b. The trust shall consist of nine voting members as follows: the Commissioner of Environmental Protection, the Secretary of Agriculture, the Secretary of State, and the State Treasurer, who shall be members ex officio; and five public members, one of whom shall be appointed by the Governor, two of whom shall be appointed by the President

of the Senate and of those two so appointed no more than one shall be from the same political party, and two of whom shall be appointed by the Speaker of the General Assembly and of those two so appointed no more than one shall be from the same political party. The public member appointed by the Governor shall serve a term of five years. Each public member appointed by the President of the Senate shall serve a term of five years, except of those first appointed, one shall serve a term of three years and the other a term of two years. Each public member appointed by the Speaker of the General Assembly shall serve a term of five years, except of those first appointed, one shall serve a term of three years and the other a term of two years.

No person holding elective public office shall be eligible to be a member of the trust.

c. Each public member shall hold office for the term of the member's appointment and until the member's successor shall have been appointed and qualified. A public member shall be eligible for reappointment. Any vacancy in a public membership occurring other than by expiration of term shall be filled in the same manner as the original appointment but for the unexpired term only.

d. Any public member may be removed from office by the appointing authority, for cause, after a public hearing, and may be suspended by the appointing authority pending the completion of the hearing. All members before entering upon their duties shall take and subscribe an oath to perform the duties of their office faithfully, impartially and justly to the best of their ability. A record of each oath shall be filed in the Office of the Secretary of State.

e. The first chairperson of the trust shall be the public member first appointed by the Governor. At the first meeting of the trust held in each subsequent year, the members shall elect one of the public members to serve as chairperson of the trust in a manner that ensures that the chair rotates annually among at least one of the appointees of the President of the Senate, at least one of the appointees of the Speaker of the General Assembly, and the appointee of the Governor.

f. The trust shall not be deemed to be constituted and shall not take action or adopt motions or resolutions until all five authorized public members shall have been appointed and qualified in the manner provided in this section. The members shall annually elect one of the public members as vice chairperson. The members shall elect a secretary and a treasurer, who need not be members, and the same person may be elected to serve as both secretary and treasurer. The powers of the trust shall be vested in the members thereof in office from time to time and five members of the trust shall constitute a quorum at any meeting thereof. Action may be taken and motions and resolutions adopted by the trust at any meeting thereof by the affirmative vote of a majority of the full membership of the trust. No vacancy in the membership of the trust shall impair the right of a quorum of the members to exercise all the powers and perform all the duties of the trust. The trust shall in all respects comply with the provisions of the "Open Public Meetings Act," P.L.1975, c. 231 (C.10:4-6 et seq.).

g. Each public member of the trust shall receive compensation in the amount of \$150 per day for each day that the public member attends a meeting of the trust, unless otherwise prohibited by law. Ex officio members of the trust shall serve without compensation. All members shall be reimbursed for actual expenses necessarily incurred in the discharge of their duties. Notwithstanding the provisions of any other law, no member shall be deemed to have forfeited nor shall the member forfeit the member's office or employment or any benefits or emoluments thereof by reason of the member's acceptance of the office of ex officio member of the trust or the member's services therein.

h. Each ex officio member may designate an employee of the member's department or agency to represent the member at meetings of the trust. All designees may lawfully vote and otherwise act on behalf of the member for whom they constitute the designee. The designation shall be in writing delivered to the trust and shall continue in effect until revoked or amended in writing delivered to the trust.

i. A true copy of the minutes of every meeting of the trust shall be delivered forthwith by and under the certification

of the secretary thereof to the Governor. No action taken at the meeting by the trust shall have force or effect until 15 days after the copy of the minutes shall have been so delivered, unless during this 15-day period the Governor shall approve in writing the minutes or any part thereof, in which case the action shall become effective upon approval. If, within that 15-day period, the Governor returns a copy of the minutes with the Governor's veto of any action taken by the trust or any member thereof at the meeting, the action shall be null and void and of no effect. Notwithstanding the foregoing, if the last day of the 15-day period shall be a Saturday, Sunday or legal holiday, then the 15-day period shall be deemed extended to the next following business day. The powers conferred in this subsection upon the Governor shall be exercised with due regard for the rights of the holders of bonds, notes or other obligations of the trust at any time outstanding, and nothing in, or done pursuant to, this subsection shall in any way limit, restrict or alter the obligation or powers of the trust or any representative or officer of the trust to carry out and perform in every detail each and every covenant, agreement or contract at any time made or entered into by or on behalf of the trust with respect to its bonds, notes or other obligations or for the benefit, protection or security of the holders thereof.

j. The trust shall continue in existence until dissolved by act of the Legislature. However, any dissolution of this trust shall be on condition that the trust has no debts, contractual duties or obligations outstanding, or that provision has been made for the payment, discharge or retirement of these debts, contractual duties or obligations. Upon any dissolution of the trust, all property, rights, funds and assets thereof shall pass to and become vested in the State.

#### **13:8C-5. Purpose**

It shall be the sole purpose of the trust established pursuant to this act to:

a. Provide funding to the Department of Environmental Protection, the State Agriculture Development Committee, and the New Jersey Historic Trust for all or a portion of the cost of projects undertaken by those entities or by grant or loan recipients in accordance with the purposes and procedures established by Article VIII, Section II, paragraph 7 of the State Constitution and this act; and

b. Perform such other duties and responsibilities as authorized pursuant to this act or any other law.

#### **13:8C-6. Powers**

In addition to all other powers granted to the trust in this act, the trust shall have power:

a. To sue and be sued;

b. To have an official seal and alter it at the trust's pleasure;

c. To make and alter bylaws for its organization and internal management and rules and regulations for the conduct of its affairs and business;

d. To maintain an office at a place or places within the State as it may determine, and acquire, own, lease as lessee or lessor, hold, use, sell, transfer, or dispose of real or personal property for that purpose;

e. To acquire, hold, use and dispose of its income, revenues, funds and moneys;

f. To borrow money and to issue its bonds, notes or other obligations and to secure them by its revenues or other funds and otherwise to provide for and secure the payment thereof and to provide for the rights of the holders thereof and to provide for the refunding thereof, all as provided in this act;

g. To issue subordinated indebtedness and to enter into any revolving credit agreement, agreement establishing a line of credit or letter of credit, reimbursement agreement, interest rate exchange agreement, insurance contract, surety bond, commitment to purchase or sell bonds, notes or other obligations, purchase or sale agreement, or commitments or other contracts or agreements, and other security agreements as approved by the trust in connection with the issuance of bonds, notes or other obligations;

h. Subject to any agreement with the holders of bonds, notes or other obligations, to invest moneys of the trust not required for immediate use, including proceeds from the sale of any bonds, notes or other obligations, in obligations, securities and other investments as the trust shall deem prudent;

i. Subject to any agreements with holders of bonds, notes or other obligations, to purchase bonds, notes or other obligations of the trust out of any funds or moneys of the trust available therefor, and to hold, cancel or resell the bonds, notes or other obligations;

j. For its sole purpose as established in section 5 of this act, to appoint and employ an executive director and such additional officers, who need not be members of the trust, and such other personnel and staff as it may require, at an annual expense not to exceed \$150,000, all without regard to the provisions of Title 11A, Civil Service, of the New Jersey Statutes;

k. To do and perform any acts and things authorized by this act under, through, or by means of its officers, agents or employees or by contract with any person, firm or corporation or any public body;

l. To procure insurance against any losses in connection with its property, operations, assets or obligations in amounts and from insurers as it deems desirable;

m. To adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c. 410 (C.52:14B-1 et seq.) such rules and regulations as it deems necessary to effectuate the purposes of Article VIII, Section II, paragraph 7 of the State Constitution and this act;

n. To make and enter into any and all contracts and agreements which the trust determines are necessary, incidental, convenient or desirable to the performance of its duties and the execution of its powers under this act;

o. To accept and use any funds appropriated and paid by the State to the trust, including, without limitation, appropriations and payments from the Garden State Preservation Trust Fund Account established pursuant to section 17 of this act, for the purposes for which the appropriations and payments are made;

p. To apply for, and receive and accept, appropriations or grants of property, money, services, or reimbursements for money previously spent and other assistance offered or made available to it by or from any person, government



agency, public authority, or any public or private entity whatever for any lawful corporate purpose of the trust, including, without limitation, grants, appropriations, or reimbursements from the federal government, and to apply and negotiate for these upon such terms and conditions as may be required by any person, government agency, authority, or entity as the trust may determine to be necessary, convenient, or desirable, provided that all such moneys, grants, appropriations, and reimbursements so received and accepted shall be subject to appropriation by law pursuant to the procedures established by this act; and

q. To do any and all things necessary, incidental, convenient or desirable to carry out its purposes and exercise the powers given and granted in this act.

### **13:8C-7. Bonds, notes and other obligations**

a. The trust shall have the power and is hereby authorized to issue its bonds, notes or other obligations in principal amounts as determined by the trust to be necessary to provide for any of its corporate purposes, including the payment, funding or refunding of the principal of, or interest on, or redemption premiums, if any, on bonds, notes or other obligations issued by it, whether the bonds, notes, obligations or interest to be funded or refunded have or have not become due; and to provide for the security thereof and for the establishment or increase of reserves to secure or to pay the bonds, notes or other obligations or interest thereon and all other reserves and all costs or expenses of the trust incident to and necessary or convenient to carry out its corporate purposes and powers; and in addition to its bonds, notes and other obligations, the trust shall have the power to issue subordinated indebtedness, which shall be subordinate in lien to the lien of any or all of its bonds, notes or other obligations as the trust may determine. No resolution or other action of the trust providing for the issuance of bonds, refunding bonds, notes or other obligations shall be adopted or otherwise made effective by the trust without the prior approval in writing of the Governor and the State Treasurer.

b. Except as may be otherwise expressly provided in P.L.1999, c. 152 (C.13:8C-1 et seq.) or by the trust, every issue of bonds, notes or other obligations shall be general obligations payable out of any revenues or funds of the trust, subject only to any agreements with the holders of particular bonds, notes or other obligations pledging any particular revenues or funds. The trust may provide the security and payment provisions for its bonds, notes or other obligations as it may determine, including, without limiting the generality of the foregoing, bonds, notes or other obligations as to which the principal and interest are payable from and secured by all or any portion of the revenues of and payments to the trust, and other moneys or funds as the trust shall determine. The trust may also enter into bank loan agreements, lines of credit and other security agreements as authorized pursuant to subsection g. of section 6 of P.L.1999, c. 152 (C.13:8C-6) and obtain for or on its behalf letters of credit in each case for the purpose of securing its bonds, notes or other obligations or to provide direct payment of any costs which the trust is authorized to pay by P.L.1999, c. 152 and to secure repayment of any borrowings under the loan agreement, line of credit, letter of credit or other security agreement by its bonds, notes or other obligations or the proceeds thereof or by any or all of the revenues of and payments to the trust or by any appropriation, grant or reimbursement to be received by the trust and other moneys or funds as the trust shall determine.

c. Whether or not the bonds and notes are of the form and character as to be negotiable instruments under the terms of Title 12A, Commercial Transactions, of the New Jersey Statutes, the bonds and notes are hereby made negotiable instruments within the meaning of and for all the purposes of Title 12A.

d. Bonds or notes of the trust shall be authorized by a resolution or resolutions of the trust and may be issued in one or more series and shall bear the date, or dates, mature at the time or times, bear interest at the rate or rates of interest per annum, be in the denomination or denominations, be in the form, carry the conversion or registration privileges, have the rank or priority, be executed in the manner, be payable from the sources, in the medium of payment, at the place or places within or outside of the State, and be subject to the terms of redemption, with or

without premium, as the resolution or resolutions may provide. Bonds or notes may be further secured by a trust indenture between the trust and a corporate trustee within or outside of the State. All other obligations of the trust shall be authorized by resolution containing terms and conditions as the trust shall determine.

e. Bonds, notes or other obligations of the trust may be sold at public or private sale at a price or prices and in a manner as the trust shall determine, either on a negotiated or on a competitive basis.

f. Bonds or notes may be issued and other obligations incurred under the provisions of P.L.1999, c. 152 (C.13:8C-1 et seq.) without obtaining the consent of any department, division, commission, board, bureau or agency of the State, other than the approval as required by subsection a. of this section, and without any other proceedings or the happening of any other conditions or other things than those proceedings, conditions or things which are specifically required by P.L.1999, c. 152.

g. Bonds, notes and other obligations of the trust issued or incurred under the provisions of P.L.1999, c. 152 (C.13:8C-1 et seq.) shall not be in any way a debt or liability of the State or of any political subdivision thereof other than the trust and shall not create or constitute any indebtedness, liability or obligation of the State or of any political subdivision or be or constitute a pledge of the faith and credit of the State or of any political subdivision but all bonds, notes and obligations, unless funded or refunded by bonds, notes or other obligations of the trust, shall be payable solely from revenues or funds pledged or available for their payment as authorized in P.L.1999, c. 152. Each bond, note or other obligation shall contain on its face a statement to the effect that the trust is obligated to pay the principal thereof, redemption premium, if any, or the interest thereon only from revenues or funds of the trust and that neither the State nor any political subdivision thereof is obligated to pay the principal thereof, redemption premium, if any, or interest thereon and that neither the faith and credit nor the taxing power of the State or any political subdivision thereof is pledged to the payment of the principal of, redemption premium, if any, or the interest on the bonds, notes or other obligations. For the purposes of this subsection, political subdivision does not include the trust.

h. All expenses incurred in carrying out the provisions of P.L.1999, c. 152 (C.13:8C-1 et seq.) shall be payable solely from the revenues or funds provided or to be provided under or pursuant to the provisions of P.L.1999, c. 152 and nothing in P.L.1999, c. 152 shall be construed to authorize the trust to incur any indebtedness or liability on behalf of or payable by the State or any political subdivision thereof.

i. Prior to July 1, 2009, the aggregate principal amount of bonds, notes or other obligations, including subordinated indebtedness, of the trust shall not exceed \$1,150,000,000 ; except that this limitation shall not include any bonds, notes or other obligations, including subordinated indebtedness, of the trust issued for refunding purposes in accordance with the provisions of this section, and any bonds, notes or other obligations of the trust issued to fund the costs of issuance of its bonds, notes or other obligations. After June 30, 2009, the trust may issue only refunding bonds in any amount subject to subsections j. through n. of this section.

The trust shall not issue bonds, notes or other obligations in any State fiscal year in excess of \$350,000,000, except that if that permitted amount of bonds, notes or other obligations, or any portion thereof, is not issued in a State fiscal year it may be issued in a subsequent State fiscal year. Any increase in this limitation shall only occur if so provided for by law.

The limitations specified in this subsection shall apply only to bonds, notes or other obligations of the trust that are payable from, or secured by, amounts on deposit in the Garden State Preservation Trust Fund Account established pursuant to section 17 of P.L.1999, c. 152 (C.13:8C-17).

j. Upon the decision by the trust to issue refunding bonds pursuant to this section, and prior to the sale of those bonds, the trust shall transmit to the Joint Budget Oversight Committee, or its successor, a report that a decision has been made, reciting the basis on which the decision was made, including an estimate of the debt service savings to

be achieved and the calculations upon which the trust relied when making the decision to issue refunding bonds. The report shall also disclose the intent of the trust to issue and sell the refunding bonds at public or private sale and the reasons therefor.

k. The Joint Budget Oversight Committee, or its successor, shall have authority to approve or disapprove the sale of refunding bonds as included in each report submitted in accordance with subsection j. of this section. The Joint Budget Oversight Committee, or its successor, shall approve or disapprove the sale of refunding bonds within 10 business days after physical receipt of the report. The Joint Budget Oversight Committee, or its successor, shall notify the trust in writing of the approval or disapproval as expeditiously as possible.

l. No refunding bonds shall be issued unless the report has been submitted to and approved by the Joint Budget Oversight Committee, or its successor, as set forth in subsection k. of this section.

m. Within 30 days after the sale of the refunding bonds, the trust shall notify the Joint Budget Oversight Committee, or its successor, of the result of that sale, including the prices and terms, conditions and regulations concerning the refunding bonds, and the actual amount of debt service savings to be realized as a result of the sale of refunding bonds.

n. The Joint Budget Oversight Committee, or its successor, shall, however, review all information and reports submitted in accordance with this section and may, on its own initiative, make observations and recommendations to the trust or to the Legislature, or both, as it deems appropriate.

### **13:8C-8. Power to covenant**

In any resolution of the trust authorizing or relating to the issuance of any bonds, notes or other obligations or in any indenture securing the bonds, notes or other obligations, the trust, in order to secure the payment of the bonds, notes or other obligations and in addition to its other powers, shall have the power by provisions therein, which shall constitute covenants by the trust and contracts with the holders of the bonds, notes or other obligations, to:

a. Pledge all or any part of its revenues or receipts to which its right then exists or may thereafter come into existence and other moneys or funds as the trust shall determine and the moneys derived therefrom, and the proceeds of any bonds, notes or other obligations;

b. Pledge any agreement, including a grant, agreement or contract with the federal government, the revenues or payments thereunder and the proceeds thereof;

c. Covenant against pledging all or any part of its revenues or receipts or its agreements and the revenues derived thereunder or the proceeds thereof and other moneys or funds as the trust shall determine and the moneys derived therefrom or against permitting or suffering any lien on any of the foregoing;

d. Covenant with respect to limitations on any right to sell, lease or otherwise dispose of any property of any kind;

e. Covenant as to any bonds, notes and other obligations to be issued and the limitations thereof and the terms and conditions thereof and as to the custody, application, investment, and disposition of the proceeds thereof;

f. Covenant as to the issuance of additional bonds, notes or other obligations or as to limitations on the issuance of additional bonds, notes or other obligations and on the incurring of other debts by it;

g. Covenant as to the payment of the principal of or interest on the bonds, notes or other obligations, as to the sources and methods of payment, as to the rank or priority of any bonds, notes or obligations with respect to any lien or security or as to the acceleration of the maturity of any bonds, notes or obligations;

h. Provide for the replacement of lost, stolen, destroyed or mutilated bonds, notes or other obligations;

i. Covenant against extending the time for the payment of bonds, notes or other obligations or interest thereon;

j. Covenant as to the redemption of bonds, notes or other obligations and privileges of exchange thereof for other bonds, notes or other obligations of the trust;

k. Covenant to create or authorize the creation of special funds or moneys to be held in pledge or otherwise for payment or redemption of bonds, notes or other obligations, reserves or other purposes and as to the use, investment, and disposition of the moneys held in the funds;

l. Establish the procedure, if any, by which the terms of any contract or covenant with or for the benefit of the holders of bonds, notes or other obligations may be amended or abrogated, the amount of bonds, notes or other obligations the holders of which must consent thereto, and the manner in which the consent may be given;

m. Provide for the release of property, agreements, or revenues and receipts from any pledge and to reserve rights and powers in, or the right to dispose of, property which is subject to a pledge;

n. Provide for the rights and liabilities, powers and duties arising upon the breach of any covenant, condition or obligation and to prescribe the events of default and the terms and conditions upon which any or all of the bonds, notes or other obligations of the trust shall become or may be declared due and payable before maturity and the terms and conditions upon which any declaration and its consequences may be waived;

o. Vest in a trustee or trustees within or outside of the State such property, rights, powers and duties in trust as the trust may determine, and to limit the rights, duties and powers of that trustee or trustees;

p. Execute all bills of sale, conveyances, deeds of trust and other instruments necessary or convenient in the exercise of its powers or in the performance of its covenants or duties;

q. Pay the costs or expenses incident to the enforcement of the bonds, notes or other obligations or of the provisions of the resolution or of any covenant or agreement of the trust with the holders of its bonds, notes or other obligations;

r. Limit the rights of the holders of any bonds, notes or other obligations to enforce any pledge or covenant securing the bonds, notes or other obligations; and

s. Make covenants, in addition to the covenants herein expressly authorized, of like or different character, and to make covenants to do or refrain from doing acts and things as may be necessary, or convenient and desirable, in

order to better secure bonds, notes or other obligations or which in the absolute discretion of the trust will tend to make bonds, notes or other obligations more marketable, notwithstanding that the covenants, acts or things may not be enumerated herein.

### **13:8C-9. Pledge of revenue, money, funds or other property**

Any pledge of revenues, moneys, funds or other property made by the trust shall be valid and binding from the time when the pledge is made; the revenues, moneys, funds or other property so pledged and thereafter received by the trust shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of any pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the trust, irrespective of whether the parties have notice thereof. Neither the resolution nor any other instrument by which a pledge of revenues, moneys or funds is created need be filed or recorded, except in the records of the trust.

### **13:8C-10. Limitation on personal liability for bonds, notes or other obligations**

Neither the members of the trust nor any person executing bonds, notes or other obligations issued pursuant to this act shall be liable personally on the bonds, notes or other obligations by reason of the issuance thereof.

### **13:8C-11. Power to establish reserves, funds or accounts**

The trust may establish reserves, funds or accounts as may be, in its discretion, necessary or desirable to further the accomplishment of the purposes of the trust or to comply with the provisions of any agreement made by or any resolution of the trust.

### **13:8C-12. State pledge**

The State does hereby pledge to and covenant and agree with the holders of any bonds, notes or other obligations issued or incurred pursuant to the authorization of this act that the State will not limit or alter the rights or powers hereby vested in the trust in any way that would jeopardize the interest of the holders of the bonds, notes or other obligations or inhibit or prevent performance or fulfillment by the trust of the terms of any agreement made with the holders of the bonds, notes or other obligations, or prevent the trust from obtaining sufficient revenues which, together with other available funds, shall be sufficient to meet all expenses of the trust and fulfill the terms of any agreement made with the holders of the bonds, notes or other obligations, together with interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of the holders, as provided in any agreement provided for in this act, until the bonds, notes or other obligations, together with interest thereon, are fully met and discharged or provided for. The failure of the State to appropriate moneys for any purpose of this act shall not be deemed or construed to be a violation of this section.

### **13:8C-13. Investment in sinking funds**

The State and all public officers, governmental units and agencies thereof, all banks, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all executors, administrators, guardians, trustees and other fiduciaries may legally invest any sinking funds, moneys or other funds belonging to them or within their control in any bonds, notes or other obligations issued pursuant to this act, and the bonds, notes or other obligations shall be authorized security for any and all public deposits.

#### **13:8C-14. Property of trust as public property**

All property of the trust is declared to be public property devoted to an essential public and governmental function and purpose and shall be exempt from all taxes and special assessments of the State or any political subdivision thereof. All bonds, notes or other obligations issued pursuant to this act are hereby declared to be issued by a body corporate and politic of the State and for an essential public and governmental purpose and the bonds, notes and other obligations, and the interest thereon and the income therefrom, and all funds, revenues, income and other moneys received or to be received by the trust and pledged or available to pay or secure the payment of the bonds, notes and other obligations, or interest thereon, shall at all times be exempt from taxation, except for transfer inheritance and estate taxes.

#### **13:8C-15. Annual report**

On or before the first day of September in each year, commencing with the calendar year after the date of enactment of this act, the trust shall make an annual report of its activities for the preceding State fiscal year to the Governor and to the Legislature, in addition to responding to other requests made by the Legislature from time to time. The report shall set forth a complete operating and financial statement covering its operations during the year, a long range financing plan for the next five years and a more specific short range financing plan for the next year with respect to providing the funding necessary to achieve the goals and objectives of this act, and a summary of the progress made to date on achieving those goals and objectives. The trust shall cause an audit of its books and accounts to be made at least once in each year by certified public accountants and the cost thereof shall be considered an expense of the trust and a copy thereof shall be filed with the Director of the Division of Budget and Accounting in the Department of the Treasury. Notwithstanding the provisions of any law to the contrary, the State Auditor, or the State Auditor's legally authorized representative, may examine the accounts and books of the trust.

#### **13:8C-16. Services to the trust**

All officers, departments, boards, agencies, divisions, and commissions of the State are hereby authorized and empowered to render any and all services to the trust as may be within the area of their respective governmental functions as fixed or established by law, and as may be requested by the trust. Insofar as possible, the cost and expense of any services shall be met and provided for by those officers, departments, boards, agencies, divisions and commissions.

#### **13:8C-17. Garden State Preservation Trust Fund Account established**

a. There is established in the General Fund a special account to be known as the “Garden State Preservation Trust Fund Account.” The State Treasurer shall credit to this account:

(1) In each State fiscal year from State fiscal year 2000 through and including State fiscal year 2009, an amount from the State revenue annually collected from the State tax imposed under the “Sales and Use Tax Act,” P.L.1966, c. 30 (C.54:32B-1 et seq.), as amended and supplemented, equal to \$98,000,000; and

(2) In each State fiscal year from State fiscal year 2010 through and including State fiscal year 2029, an amount from the State revenue annually collected from the State tax imposed under the “Sales and Use Tax Act,” P.L.1966, c. 30 (C.54:32B-1 et seq.), as amended and supplemented, necessary to satisfy any payments relating to bonds, notes or other obligations, including refunding bonds, of the trust, but such amount shall not exceed \$98,000,000 in any such State fiscal year.

b. In each State fiscal year, the amount credited to the Garden State Preservation Trust Fund Account shall be appropriated only for the purposes set forth in Article VIII, Section II, paragraph 7 of the State Constitution and this act.

c. (1) On the basis of a payment schedule provided annually by the trust to the State Treasurer for State fiscal year 2000 through and including State fiscal year 2009, the State Treasurer shall pay to the trust the amount credited to the Garden State Preservation Trust Fund Account, plus any interest or other income earned on the amount so credited prior to payment pursuant to this subsection, for each such State fiscal year as provided pursuant to paragraph (1) of subsection a. of this section and appropriated pursuant to subsection b. of this section, which the trust shall use for its purposes as set forth in this act. The State Treasurer also shall pay to the trust such other amounts as may be appropriated from time to time for use by the trust for its purposes as set forth in this act.

This paragraph shall not apply to such portion of the amount credited to the Garden State Preservation Trust Fund Account in State fiscal year 2000 that is appropriated pursuant to the annual appropriations act for State fiscal year 2000 (now before the Legislature as Senate Bill No. of 1999 or Assembly Bill No. of 1999) to pay the cost of projects listed in that act for the purposes set forth in Article VIII, Section II, paragraph 7 of the State Constitution.

(2) In each State fiscal year from State fiscal year 2010 through and including State fiscal year 2029, the State Treasurer shall pay to the trust the amount credited to the Garden State Preservation Trust Fund Account for that State fiscal year as provided pursuant to paragraph (2) of subsection a. of this section and appropriated pursuant to subsection b. of this section, which the trust shall use for its purposes as set forth in this act. The State Treasurer also shall pay to the trust such other amounts as may be appropriated from time to time for use by the trust for its purposes as set forth in this act.

d. Any repayments of the principal and interest on loans issued to local government units for the acquisition or development of lands for recreation and conservation purposes pursuant to subsection b. of section 27 of this act credited to the Garden State Preservation Trust Fund Account as provided pursuant to Article VIII, Section II, paragraph 7 of the State Constitution shall be deposited in the Garden State Green Acres Preservation Trust Fund established pursuant to section 19 of this act.

### **13:8C-18. Trust transfers to State Treasurer; allocations**

a. In each State fiscal year, from State fiscal year 2000 through and including State fiscal year 2009, the trust shall

transfer to the State Treasurer for deposit into:

(1) the Garden State Green Acres Preservation Trust Fund, established pursuant to section 19 of this act, 60% of such amounts as are available from:

(a) the amount paid to the trust for that State fiscal year pursuant to subsection c. of section 17 of this act, net of the amount necessary to be deposited in the Garden State Historic Preservation Trust Fund pursuant to paragraph (3) of this subsection and net of any amount that shall be retained by the trust to make any necessary payments related to bonds, notes or other obligations, including refunding bonds, issued by the trust; and

(b) such proceeds raised by the trust for the purposes set forth in Article VIII, Section II, paragraph 7 of the State Constitution and this act through the issuance of bonds, notes or other obligations;

(2) the Garden State Farmland Preservation Trust Fund, established pursuant to section 20 of this act, 40% of such amounts as are available from:

(a) the amount paid to the trust for that State fiscal year pursuant to subsection c. of section 17 of this act, net of the amount necessary to be deposited in the Garden State Historic Preservation Trust Fund pursuant to paragraph (3) of this subsection and net of any amount that shall be retained by the trust to make any necessary payments related to bonds, notes or other obligations, including refunding bonds, issued by the trust; and

(b) such proceeds raised by the trust for the purposes set forth in Article VIII, Section II, paragraph 7 of the State Constitution and this act through the issuance of bonds, notes or other obligations; and

(3) the Garden State Historic Preservation Trust Fund, established pursuant to section 21 of this act, the sum of \$6,000,000 per year from the amount paid to the trust for that State fiscal year pursuant to subsection c. of section 17 of this act.

b. (1) Of the amount deposited each State fiscal year into the Garden State Green Acres Preservation Trust Fund pursuant to paragraph (1) of subsection a. of this section, or received into the fund each State fiscal year from other sources: 50% thereof shall be allocated for the purposes of paying the cost of acquisition and development of lands by the State for recreation and conservation purposes; 40% thereof shall be allocated for the purposes of providing grants and loans to assist local government units to pay the cost of acquisition and development of lands for recreation and conservation purposes; and 10% thereof shall be allocated for the purposes of providing grants to assist qualifying tax exempt nonprofit organizations to pay the cost of acquisition and development of lands for recreation and conservation purposes, all as provided pursuant to this act.

(2) Notwithstanding the provisions of this subsection to the contrary, any repayments of the principal and interest on loans issued to local government units for the acquisition or development of lands for recreation and conservation purposes pursuant to subsection b. of section 27 of this act, including repayments received after June 30, 2009, shall be allocated only for the issuance of additional loans to local government units for the acquisition or development of lands for recreation and conservation purposes pursuant to subsection b. of section 27 of this act.

c. (1) Notwithstanding the provisions of this section to the contrary, the trust, after conducting at least one public



hearing upon at least 60 days' advance public notice thereof, and upon finding that it would further the purposes of Article VIII, Section II, paragraph 7 of the State Constitution and this act, may (a) alter for a specific and identified State fiscal year the funding allocation percentages or levels set for or within each of the trust funds as prescribed pursuant to this section for that State fiscal year, or (b) request the State Treasurer to transfer moneys from one trust fund to another trust fund, to respond to the special needs and funding priorities of the State within a specific and identified State fiscal year, respond to exigent circumstances, take advantage of unexpected opportunities, or maximize the impact of financial resources applied to the purposes of any particular funding category. Upon receipt of any such request from the trust, the State Treasurer shall transfer the moneys between the trust funds in the manner prescribed by the trust. Moneys so transferred from a trust fund shall not be required to be repaid to the trust fund from which they were transferred, provided that the moneys so transferred are expended for any of the purposes authorized by Article VIII, Section II, paragraph 7 of the State Constitution or this act.

(2) Moneys deposited into the Garden State Green Acres Preservation Trust Fund from the repayments of the principal and interest on loans, including repayments received after June 30, 2009, issued to local government units for the acquisition or development of lands for recreation and conservation purposes pursuant to subsection b. of section 27 of this act shall not be subject to transfer to other trust funds or be made available for other purposes authorized for moneys deposited into the Garden State Green Acres Preservation Trust Fund; such repayments shall be allocated only for the issuance of additional loans to local government units for the acquisition or development of lands for recreation and conservation purposes as provided pursuant to subsection b. of section 27 of this act.

d. All administrative costs and expenses, including but not limited to salaries, fringe and other benefits, equipment, materials, direct and indirect costs, and non-salaried administrative costs, of the Department of Environmental Protection, the State Agriculture Development Committee, the New Jersey Historic Trust, and any other State entity incurred in connection with the implementation or administration of Article VIII, Section II, paragraph 7 of the State Constitution or this act shall be paid from the General Fund and not from constitutionally dedicated moneys.

### **13:8C-18.1. Garden State Greenacres Preservation Trust Fund; allocation of proceeds**

Of the total of up to \$1,150,000,000 in proceeds raised by the trust from the issuance of bonds, notes or other obligations, and transferred by the trust to the State Treasurer and deposited by the State Treasurer into the Garden State Green Acres Preservation Trust Fund established pursuant to section 19 of P.L.1999, c. 152 (C.13:8C-19) and the Garden State Farmland Preservation Trust Fund established pursuant to section 20 of P.L.1999, c. 152 (C.13:8C-20) as required pursuant to subsection a. of section 18 of P.L.1999, c. 152 (C.13:8C-18), any amounts exceeding \$1,000,000,000 in such proceeds shall be allocated and deposited into those two trust funds as follows notwithstanding the provisions of subsection a. of section 18 of P.L.1999, c. 152 (C.13:8C-18) to the contrary:

a. 80% thereof to the Garden State Green Acres Preservation Trust Fund to be used for the purposes of that trust fund; and

b. 20% thereof to the Garden State Farmland Preservation Trust Fund to be used for the purposes of that trust fund.

### **13:8C-19. Garden State Green Acres Preservation Trust Fund established**

The State Treasurer shall establish a fund to be known as the "Garden State Green Acres Preservation Trust Fund." The State Treasurer shall deposit into the fund all moneys transferred from the trust to the State Treasurer for deposit into the fund pursuant to paragraph (1) of subsection a. of section 18 of this act<sup>1</sup> and any other moneys appropriated by law for deposit into the fund. Moneys in the fund shall be invested in permitted investments or shall be held in

interest-bearing accounts in those depositories as the State Treasurer may select, and may be invested and reinvested in permitted investments or as other trust funds in the custody of the State Treasurer in the manner provided by law. All interest or other income or earnings derived from the investment or reinvestment of moneys in the fund shall be credited to the fund. Moneys derived from the payment of principal and interest on the loans to local government units authorized in subsection b. of section 27 of this act<sup>2</sup> shall also be held in the fund. Such grants, contributions, donations, and reimbursements from federal aid programs, including but not limited to funding received by the State from the federal Land and Water Conservation Fund, 16 U.S.C. s.4601-4 et al., and from other public or private sources as may be used lawfully for the purposes of section 26 of this act<sup>3</sup> shall also be held in the fund, but shall be expended in accordance with any purposes for which the moneys were designated and in compliance with any conditions or requirements attached thereto. The moneys in the fund are specifically dedicated and shall be applied to the cost of the purposes set forth in section 26 of this act. Moneys derived from the payment of principal and interest on the loans to local government units authorized in subsection b. of section 27 of this act are specifically dedicated for the issuance of additional loans in accordance with subsection b. of section 27 of this act. Moneys in the fund shall not be expended except in accordance with appropriations from the fund made by law. Unexpended moneys due to project withdrawals, cancellations, or cost savings shall be returned to the fund, except as otherwise provided pursuant to paragraph (3) of subsection a. of section 23 of this act,<sup>4</sup> to be used for the purposes of the fund.

#### Footnotes

1

N.J.S.A. § 13:8C-18.

2

N.J.S.A. § 13:8C-27.

3

N.J.S.A. § 13:8C-26.

4

N.J.S.A. § 13:8C-23.

### **13:8C-20. Garden State Farmland Preservation Trust Fund established**

The State Treasurer shall establish a fund to be known as the “Garden State Farmland Preservation Trust Fund.” The State Treasurer shall deposit into the fund all moneys transferred from the trust to the State Treasurer for deposit into the fund pursuant to paragraph (2) of subsection a. of section 18 of this act<sup>1</sup> and any other moneys appropriated by law for deposit into the fund. Moneys in the fund shall be invested in permitted investments or shall be held in interest-bearing accounts in those depositories as the State Treasurer may select, and may be invested and reinvested in permitted investments or as other trust funds in the custody of the State Treasurer in the manner provided by law. All interest or other income or earnings derived from the investment or reinvestment of moneys in the fund shall be credited to the fund. Such grants, contributions, donations, and reimbursements from federal aid programs and from other public or private sources as may be used lawfully for the purposes of section 37 of this act<sup>2</sup> shall also be held in the fund, but shall be expended in accordance with any purposes for which the moneys were designated and in compliance with any conditions or requirements attached thereto. The moneys in the fund are specifically dedicated and shall be applied to the cost of the purposes set forth in section 37 of this act. Moneys in the fund shall not be expended except in accordance with appropriations from the fund made by law. Unexpended moneys due to project withdrawals, cancellations, or cost savings shall be returned to the fund, except as otherwise provided pursuant to paragraph (3) of subsection b. of section 23 of this act,<sup>3</sup> to be used for the purposes of the fund.

#### Footnotes

1

N.J.S.A. § 13:8C-18.

2

N.J.S.A. § 13:8C-37.

3

N.J.S.A. § 13:8C-23.

### **13:8C-21. Garden State Historic Preservation Trust Fund established**

The State Treasurer shall establish a fund to be known as the “Garden State Historic Preservation Trust Fund.” The State Treasurer shall deposit into the fund all moneys transferred from the Garden State Preservation Trust to the State Treasurer for deposit into the fund pursuant to paragraph (3) of subsection a. of section 18 of this act<sup>1</sup> and any other moneys appropriated by law for deposit into the fund. Moneys in the fund shall be invested in permitted investments or shall be held in interest-bearing accounts in those depositories as the State Treasurer may select, and may be invested and reinvested in permitted investments or as other trust funds in the custody of the State Treasurer in the manner provided by law. All interest or other income or earnings derived from the investment or reinvestment of moneys in the fund shall be credited to the fund. Such grants, contributions, donations, and reimbursements from federal aid programs and from other public or private sources as may be used lawfully for the purposes of section 41 of this act<sup>2</sup> shall also be held in the fund, but shall be expended in accordance with any purposes for which the moneys were designated and in compliance with any conditions or requirements attached thereto. The moneys in the fund are specifically dedicated and shall be applied to the cost of the purposes set forth in section 41 of this act. Moneys in the fund shall not be expended except in accordance with appropriations from the fund made by law. Unexpended moneys due to project withdrawals, cancellations, or cost savings shall be returned to the fund, except as otherwise provided pursuant to paragraph (3) of subsection c. of section 23 of this act,<sup>3</sup> to be used for the purposes of the fund.

#### Footnotes

1

N.J.S.A. § 13:8C-18.

2

N.J.S.A. § 13:8C-41.

3

N.J.S.A. § 13:8C-23.

### **13:8C-22. Audit and review of expenditures and issuances**

a. The State Auditor shall conduct audits of the expenditures from the Garden State Green Acres Preservation Trust Fund, the Garden State Farmland Preservation Trust Fund, and the Garden State Historic Preservation Trust Fund as necessary to determine from time to time whether moneys from those funds have been expended for costs consistent with Article VIII, Section II, paragraph 7 of the State Constitution, this act, any appropriations of those moneys made by the Legislature, and any requirements established therefor by the trust. The State Auditor shall transmit the audit to the President of the Senate and the Speaker of the General Assembly, and to the members of the Senate Budget and Appropriations Committee, the Assembly Appropriations Committee, and the Joint Budget Oversight Committee, or their successors. The State Auditor shall also provide copies of the audit to the Governor, the State Treasurer, and the trust.

b. The State Auditor shall review bond, note and other obligation issuances of the trust and report annually to the members of the Senate Budget and Appropriations Committee, the Assembly Appropriations Committee, and the Joint Budget Oversight Committee, or their successors, on the status of the bonds, notes and other obligations of the

trust and projects financed from the proceeds of the bonds, notes or other obligations. The report shall include the investment status of all unexpended bond, note or other obligation proceeds and provide a description of any bond, note or other obligation issues expected during a fiscal year, including type of issue, estimated amount of bonds, notes or other obligations to be issued, and the expected month of sale.

### **13:8C-23. Funding projects; submissions; procedures**

a. (1) At least twice each State fiscal year, the Department of Environmental Protection shall submit to the trust a list of projects that the department recommends to receive funding from: the Garden State Green Acres Preservation Trust Fund, based upon a priority system, ranking criteria, and funding policies established by the department pursuant to P.L. 1999, c. 152 (C.13:8C-1 et seq.); or any Green Acres bond act with respect to moneys allocated therein for appropriation for the purpose of acquiring or developing lands for recreation and conservation purposes, based upon a priority system, ranking criteria, and funding policies established by the department pursuant to law and any rules or regulations adopted pursuant thereto.

To the extent the department receives a sufficient number of applications from local government units for the funding of projects to acquire or develop, for recreation and conservation purposes, lands located in municipalities eligible to receive State aid pursuant to P.L.1978, c. 14 (C.52:27D-178 et seq.), and those projects qualify for funding based upon the priority system, ranking criteria, and funding policies established by the department, in any State fiscal year the percentage of funding from the Garden State Green Acres Preservation Trust Fund for such projects recommended by the department shall be substantially equivalent to or greater than the percentage derived by dividing the total amount allocated pursuant to P.L.1983, c. 354, P.L.1987, c. 265, P.L.1989, c. 183, P.L.1992, c. 88, and P.L.1995, c. 204, for local government unit projects for recreation and conservation purposes in municipalities eligible to receive State aid pursuant to P.L.1978, c. 14 (C.52:27D-178 et seq.) by the total amount allocated pursuant to P.L.1983, c. 354, P.L.1987, c. 265, P.L.1989, c. 183, P.L.1992, c. 88, and P.L.1995, c. 204, for all local government unit projects for recreation and conservation purposes. In any State fiscal year, not less than 20% of the total amount of funding from the Garden State Green Acres Preservation Trust Fund for all State projects to acquire and develop lands for recreation and conservation purposes throughout the State recommended by the department shall be for State projects located in highly populated counties of the State with population densities of at least 1,000 persons per square mile according to the latest federal decennial census.

The trust shall review the list and may make such deletions, but not additions, of projects therefrom as it deems appropriate and in accordance with the procedures established for such deletions pursuant to subsection d. of this section, whereupon the trust shall approve the list. At least twice each State fiscal year: (a) the trust shall prepare, and submit to the Governor and to the President of the Senate and the Speaker of the General Assembly for introduction in the Legislature, proposed legislation appropriating moneys from the Garden State Green Acres Preservation Trust Fund, or from any Green Acres bond act with respect to moneys allocated therein for appropriation for the purpose of acquiring or developing lands for recreation and conservation purposes, to fund projects on any such list; and (b) the Legislature may approve one or more appropriation bills containing a project list or lists submitted by the trust pursuant to this paragraph.

(2) Any act appropriating moneys from the Garden State Green Acres Preservation Trust Fund, or from any Green Acres bond act with respect to moneys allocated therein for appropriation for the purpose of acquiring or developing lands for recreation and conservation purposes, shall identify the particular project or projects to be funded by those moneys, and any expenditure for a project for which the location is not identified by county and municipality in the appropriation shall require the approval of the Joint Budget Oversight Committee or its successor.

Moneys may be appropriated to a local government unit that has prepared and adopted an open space acquisition and development plan approved by the department, or to a qualifying tax exempt nonprofit organization that in cooperation and with the approval of a local government unit is implementing or assisting in the implementation of an open space acquisition and development plan adopted by the local government unit and approved by the department, without identifying in the act the particular project or projects to be funded, provided that the appropriation will be expended in accordance with that approved plan and, with respect to Green Acres bond act moneys, the appropriation in that form is not inconsistent with the Green Acres bond act.

(3) Any transfer of moneys appropriated from the Garden State Green Acres Preservation Trust Fund, or from any Green Acres bond act with respect to moneys allocated therein for appropriation for the purpose of acquiring or developing lands for recreation and conservation purposes, or any change in project sponsor, site, or type that has received an appropriation from the fund or from a Green Acres bond act, shall require the approval of the Joint Budget Oversight Committee or its successor but shall not require the approval of the Garden State Preservation Trust.

b. (1) At least once each State fiscal year, the State Agriculture Development Committee shall submit to the trust a request for funding that includes a list of projects that the committee recommends to receive funding from the Garden State Farmland Preservation Trust Fund, based upon a priority system, ranking criteria, and funding policies established by the committee pursuant to P.L.1999, c. 152 (C.13:8C-1 et seq.) and the “ Agriculture Retention and Development Act,” P.L.1983, c. 32 (C.4:1C-11 et seq.), and any rules or regulations adopted pursuant thereto. The trust shall review the request and may make such deletions, but not additions, of projects therefrom as it deems appropriate and in accordance with the procedures established for such deletions pursuant to subsection d. of this section, whereupon the trust shall approve the request. At least once each State fiscal year: (a) the trust shall prepare, and submit to the Governor and to the President of the Senate and the Speaker of the General Assembly for introduction in the Legislature, proposed legislation appropriating moneys from the Garden State Farmland Preservation Trust Fund to fund the request, including the projects on any such list; and (b) the Legislature may approve one or more appropriation bills containing the request and any project list or lists submitted by the trust pursuant to this paragraph.

Notwithstanding the provisions of this paragraph to the contrary, in any request submitted by the committee to the trust for funding to pay the cost of acquisition by the State of development easements on farmland or the cost of acquisition by the State, a local government unit, or a qualifying tax exempt nonprofit organization of fee simple titles to farmland, the committee shall not be required to submit a list of projects for which those funds are to be expended.

(2) Any act appropriating moneys from the Garden State Farmland Preservation Trust Fund shall identify the particular project or projects to be funded with those moneys, and any expenditure for a project for which the location is not identified by county and municipality in the appropriation shall require the approval of the Joint Budget Oversight Committee or its successor.

Notwithstanding the provisions of this paragraph to the contrary, any appropriation of moneys from the fund to pay the cost of acquisition by the State of a development easement on farmland or the cost of acquisition by the State, a local government unit, or a qualifying tax exempt nonprofit organization of a fee simple title to farmland shall not be required to identify the particular project or identify its location by county or municipality, and the expenditure of those moneys shall not require the approval of the Joint Budget Oversight Committee or its successor.

(3) Any transfer of moneys appropriated from the Garden State Farmland Preservation Trust Fund, or change in project sponsor, site, or type that has received an appropriation from the fund, shall require the approval of the Joint Budget Oversight Committee or its successor but shall not require the approval of the Garden State Preservation Trust.

c. (1) At least once each State fiscal year, or at such other interval as the New Jersey Historic Trust in consultation with the Garden State Preservation Trust deems appropriate, the New Jersey Historic Trust shall submit to the Garden State Preservation Trust a list of projects that the New Jersey Historic Trust recommends to receive funding from the Garden State Historic Preservation Trust Fund, based upon a priority system, ranking criteria, and funding policies established by the New Jersey Historic Trust pursuant to P.L.1999, c. 152 (C.13:8C-1 et seq.) and P.L.1967, c. 124 (C.13:1B-15.111 et al.), and any rules or regulations adopted pursuant thereto. The Garden State Preservation

Trust shall review the list and may make such deletions, but not additions, of projects therefrom as it deems appropriate and in accordance with the procedures established for such deletions pursuant to subsection d. of this section, whereupon the Garden State Preservation Trust shall approve the list. At least once each State fiscal year, or at such other interval as the Garden State Preservation Trust in consultation with the New Jersey Historic Trust deems appropriate: (a) the Garden State Preservation Trust shall prepare, and submit to the Governor and to the President of the Senate and the Speaker of the General Assembly for introduction in the Legislature, proposed legislation appropriating moneys from the Garden State Historic Preservation Trust Fund to fund projects on any such list; and (b) the Legislature may approve one or more appropriation bills containing a project list or lists submitted by the Garden State Preservation Trust pursuant to this paragraph.

(2) Any act appropriating moneys from the Garden State Historic Preservation Trust Fund shall identify the particular project or projects to be funded by those moneys, and any expenditure for a project for which the location is not identified by county and municipality in the appropriation shall require the approval of the Joint Budget Oversight Committee or its successor.

(3) Any transfer of moneys appropriated from the Garden State Historic Preservation Trust Fund, or change in project sponsor, site, or type that has received an appropriation from the fund, shall require the approval of the Joint Budget Oversight Committee or its successor but shall not require the approval of the Garden State Preservation Trust.

d. Whenever the Garden State Preservation Trust deletes a project from a list of projects that has been submitted to the Garden State Preservation Trust pursuant to subsection a., b., or c. of this section, the Garden State Preservation Trust shall, in consultation with the applicant and the department, the committee, or the New Jersey Historic Trust, as the case may be, review and reevaluate the merits and validity of the project. After completion of this review and reevaluation, if the department, committee, or New Jersey Historic Trust, as the case may be, continues to recommend funding of the project, it shall transmit its reasons therefor in writing to the Garden State Preservation Trust and place the project on the next or a subsequent list of projects submitted to the Garden State Preservation Trust pursuant to subsection a., b., or c. of this section. The Garden State Preservation Trust shall include the project in the next proposed legislation appropriating moneys from the Garden State Green Acres Preservation Trust Fund, Green Acres bond act, Garden State Farmland Preservation Trust Fund, or Garden State Historic Preservation Trust Fund, as the case may be, that is submitted to the Governor, President of the Senate, and Speaker of the General Assembly pursuant to subsection a., b., or c. of this section, together with a written report setting forth the rationale of the Garden State Preservation Trust in recommending deletion of the project from the proposed legislation and the rationale of the department, committee, or New Jersey Historic Trust, as the case may be, in recommending retention of the project in the proposed legislation.

e. The Garden State Preservation Trust may at any time suggest projects to be considered or rejected for consideration by the department, the committee, or the New Jersey Historic Trust in the preparation of recommended project funding lists pursuant to this section.

f. Projects involving the joint effort of more than one level of government or qualifying tax exempt nonprofit organization, or the joint effort of the department, the committee, and the New Jersey Historic Trust, or any combination thereof, shall be encouraged.

g. For the purposes of efficiency and convenience, nothing in this section shall prohibit the Garden State Preservation Trust from combining the project lists, in whole or in part, of the department, committee, and New Jersey Historic Trust into one proposed appropriation bill or bills to be submitted to the Governor and Legislature for consideration and enactment into law as otherwise prescribed pursuant to this section.

h. The total amount appropriated in any State fiscal year from the Garden State Green Acres Preservation Trust Fund

and the Garden State Farmland Preservation Trust Fund for proposed projects pursuant to subsections a. and b. of this section shall not exceed \$350,000,000, excluding grants, contributions, donations, and reimbursements from federal aid programs, including but not limited to funding received by the State from the federal Land and Water Conservation Fund, 16 U.S.C. s.4601-4 et al., and from other public or private sources as may be used lawfully for such projects.

### **13:8C-24. Office of Green Acres established; duties and responsibilities**

a. (1) There is established in the Department of Environmental Protection the Office of Green Acres. The commissioner may appoint an administrator or director who shall supervise the office, and the department may employ such other personnel and staff as may be required to carry out the duties and responsibilities of the department and the office pursuant to P.L.1999, c. 152 (C.13:8C-1 et al.) and P.L.2016, c. 12 (C.13:8C-43 et al.), all without regard to the provisions of Title 11A, Civil Service, of the New Jersey Statutes. Persons appointed or employed as provided pursuant to this subsection shall be compensated in a manner similar to other employees in the Executive Branch, and their compensation shall be determined by the Civil Service Commission.

(2) The Green Acres Program in the Department of Environmental Protection, together with all of its functions, powers and duties, are continued and transferred to and constituted as the Office of Green Acres in the Department of Environmental Protection. Whenever, in any law, rule, regulation, order, contract, document, judicial or administrative proceeding or otherwise, reference is made to the Green Acres Program, the same shall mean and refer to the Office of Green Acres in the Department of Environmental Protection. This transfer shall be subject to the provisions of the "State Agency Transfer Act," P.L.1971, c. 375 (C.52:14D-1 et seq.).

b. The duties and responsibilities of the office shall be as follows:

(1) Administer all provisions of P.L.1999, c. 152 (C.13:8C-1 et al.) and P.L.2016, c. 12 (C.13:8C-43 et al.) pertaining to funding the acquisition and development of lands for recreation and conservation purposes as authorized pursuant to Article VIII, Section II, paragraph 6 and paragraph 7 of the State Constitution;

(2) Continue to administer all grant and loan programs for the acquisition and development of lands for recreation and conservation purposes, including the Green Trust, established or funded for those purposes pursuant to: P.L.1961, c. 45 (C.13:8A-1 et seq.); P.L.1971, c. 419 (C.13:8A-19 et seq.); P.L.1975, c. 155 (C.13:8A-35 et seq.); or any Green Acres bond act; and

(3) Adopt, with the approval of the commissioner and pursuant to the "Administrative Procedure Act," P.L.1968, c. 410 (C.52:14B-1 et seq.), rules and regulations:

(a) establishing application procedures for grants and loans for the acquisition and development of lands for recreation and conservation purposes, criteria and policies for the evaluation and priority ranking of projects for eligibility to receive funding for recreation and conservation purposes using constitutionally dedicated moneys pursuant to P.L.1999, c. 152 (C.13:8C-1 et al.) or constitutionally dedicated CBT moneys pursuant to P.L.2016, c. 12 (C.13:8C-43 et al.), any conditions that may be placed on the award of a grant or loan for recreation and conservation purposes pursuant to P.L.1999, c. 152 (C.13:8C-1 et al.) or P.L.2016, c. 12 (C.13:8C-43 et al.), and any restrictions that may be placed on the use of lands acquired or developed with a grant or loan for recreation and conservation purposes pursuant to P.L.1999, c. 152 (C.13:8C-1 et al.) or P.L.2016, c. 12 (C.13:8C-43 et al.). The criteria and policies established pursuant to this subparagraph for the evaluation and priority ranking of projects for

eligibility to receive funding for recreation and conservation purposes using constitutionally dedicated moneys pursuant to P.L.1999, c. 152 (C.13:8C-1 et al.) or constitutionally dedicated CBT moneys pursuant to P.L.2016, c. 12 (C.13:8C-43 et al.) may be based upon, but need not be limited to, such factors as: protection of the environment, natural resources, water resources, watersheds, aquifers, wetlands, floodplains and flood-prone areas, stream corridors, beaches and coastal resources, forests and grasslands, scenic views, biodiversity, habitat for wildlife, rare, threatened, or endangered species, and plants; vernal habitat; degree of likelihood of development; promotion of greenways; provision for recreational access and use; protection of geologic, historic, archaeological, and cultural resources; relative cost; parcel size; and degree of public support; and

(b) addressing any other matters deemed necessary to implement and carry out the goals and objectives of Article VIII, Section II, paragraph 6 and paragraph 7 of the State Constitution and P.L.1999, c. 152 (C.13:8C-1 et al.) and P.L.2016, c. 12 (C.13:8C-43 et al.) with respect to the acquisition and development of lands for recreation and conservation purposes, including the acquisition of lands for recreation and conservation purposes that have been damaged by, or may be prone to incurring damage caused by, storms or storm-related flooding, or that may buffer or protect other lands from such damage; and

(4) Establishing criteria and policies for the evaluation and priority ranking of State projects to acquire and develop lands for recreation and conservation purposes using constitutionally dedicated moneys, which criteria and policies may be based upon, but need not be limited to, such factors as: protection of the environment, natural resources, water resources, watersheds, aquifers, wetlands, floodplains and flood-prone areas, stream corridors, beaches and coastal resources, forests and grasslands, scenic views, biodiversity, habitat for wildlife, rare, threatened, or endangered species, and plants; vernal habitat; degree of likelihood of development; promotion of greenways; provision for recreational access and use; protection of geologic, historic, archaeological, and cultural resources; relative cost; parcel size; and degree of public support.

### **13:8C-25. Report to Governor and Legislature; contents**

Within one year after the date of enactment of this act, and biennially thereafter until and including 2008, the Garden State Preservation Trust, after consultation with the Department of Environmental Protection, the State Agriculture Development Committee, the New Jersey Historic Trust, the Pinelands Commission, the Highlands Water Protection and Planning Council, and the Office of State Planning in the Department of Community Affairs, shall prepare and submit to the Governor and the Legislature a written report, which shall:

a. Describe the progress being made on achieving the goals and objectives of Article VIII, Section II, paragraph 7 of the State Constitution and this act with respect to the acquisition and development of lands for recreation and conservation purposes, the preservation of farmland, and the preservation of historic properties, and provide recommendations with respect to any legislative, administrative, or local action that may be required to ensure that those goals and objectives may be met in the future;

b. Tabulate, both for the reporting period and cumulatively, the total acreage for the entire State, and the acreage in each county and municipality, of lands acquired for recreation and conservation purposes and of farmland preserved for farmland preservation purposes that have been applied toward meeting the goals and objectives of Article VIII, Section II, paragraph 7 of the State Constitution and this act with respect to the acquisition of lands for recreation and conservation purposes and the preservation of farmland;

c. Tabulate, both for the reporting period and cumulatively, the total acreage for the entire State, and the acreage in each county and municipality, of any donations of land that have been applied toward meeting the goals and objectives of Article VIII, Section II, paragraph 7 of the State Constitution and this act with respect to the



acquisition of lands for recreation and conservation purposes and the preservation of farmland;

d. List, both for the reporting period and cumulatively, and by project name, project sponsor, and location by county and municipality, all historic preservation projects funded with constitutionally dedicated moneys in whole or in part;

e. Indicate those areas of the State where, as designated by the Department of Environmental Protection in the Open Space Master Plan prepared pursuant to section 5 of P.L.2002, c. 76 (C.13:8C-25.1), the acquisition and development of lands by the State for recreation and conservation purposes is planned or is most likely to occur, and those areas of the State where there is a need to protect water resources, including the identification of lands where protection is needed to assure adequate quality and quantity of drinking water supplies in times of drought, indicate those areas of the State where the allocation of constitutionally dedicated moneys for farmland preservation purposes is planned or is most likely to occur, and provide a proposed schedule and expenditure plan for those acquisitions, developments, and allocations, for the next reporting period, which shall include an explanation of how those acquisitions, developments, and allocations will be distributed throughout all geographic regions of the State to the maximum extent practicable and feasible;

f. List any surplus real property owned by the State or an independent authority of the State that may be utilizable for recreation and conservation purposes or farmland preservation purposes, and indicate what action has been or must be taken to effect a conveyance of those lands to the department, the committee, local government units, qualifying tax exempt nonprofit organizations, or other entities or persons so that the lands may be preserved and used for those purposes;

g. List, for the reporting period, all projects for which applications for funding under the Green Acres, farmland preservation, and historic preservation programs were received but not funded with constitutionally dedicated moneys during the reporting period, and the reason or reasons why those projects were not funded;

h. Provide, for the reporting period, a comparison of the amount of constitutionally dedicated moneys annually appropriated for local government unit projects for recreation and conservation purposes in municipalities eligible to receive State aid pursuant to P.L.1978, c. 14 (C.52:27D-178 et seq.) to the average amount of Green Acres bond act moneys annually appropriated for such projects in the years 1984 through 1998; and

i. Tabulate, both for the reporting period and cumulatively, the total acreage for the entire State, and the acreage in each county and municipality, of lands acquired for recreation and conservation purposes that protect water resources and that protect flood-prone areas.

### **13:8C-25.1. Annual Open Space Master Plan; preparation and submission**

a. Within one year after the date of enactment of P.L.2002, c. 76 (C.13:8C-25.1 et al.), and annually thereafter, the Department of Environmental Protection, in consultation with the Office of State Planning in the Department of Community Affairs, the Pinelands Commission, and the Highlands Water Protection and Planning Council, shall prepare and submit to the Governor and the Legislature an Open Space Master Plan, which shall indicate those areas of the State where the acquisition and development of lands by the State for recreation and conservation purposes is planned or is most likely to occur, and those areas of the State where there is a need to protect water resources, including the identification of lands where protection is needed to assure adequate quality and quantity of drinking water supplies in times of drought, and which shall provide a proposed schedule and expenditure plan for those acquisitions and developments for the next reporting period, which shall include an explanation of how those acquisitions and developments will be distributed throughout all geographic regions of the State to the maximum

extent practicable and feasible.

b. The department shall provide any information the Garden State Preservation Trust deems necessary in preparing its biennial report pursuant to section 25 of P.L.1999, c. 152 (C.13:8C-25).

### **13:8C-26. Money appropriated from Green Acres Preservation Fund; use by department**

a. Moneys appropriated from the Garden State Green Acres Preservation Trust Fund to the Department of Environmental Protection shall be used by the department to:

(1) Pay the cost of acquisition and development of lands by the State for recreation and conservation purposes;

(2) Provide grants and loans to assist local government units to pay the cost of acquisition and development of lands for recreation and conservation purposes; and

(3) Provide grants to assist qualifying tax exempt nonprofit organizations to pay the cost of acquisition and development of lands for recreation and conservation purposes.

b. The expenditure and allocation of constitutionally dedicated moneys for recreation and conservation purposes shall reflect the geographic diversity of the State to the maximum extent practicable and feasible.

c. (1) Notwithstanding the provisions of section 5 of P.L.1985, c. 310 (C. 13:18A-34) or this act, or any rule or regulation adopted pursuant thereto, to the contrary, the value of a pinelands development credit, allocated to a parcel pursuant to P.L.1979, c. 111 (C.13:18A-1 et seq.) and the pinelands comprehensive management plan adopted pursuant thereto, shall be made utilizing a value to be determined by either appraisal, regional averaging based upon appraisal data, or a formula supported by appraisal data. The appraisal and appraisal data shall consider as appropriate: land values in the pinelands regional growth areas; land values in counties, municipalities, and other areas reasonably contiguous to, but outside of, the pinelands area; and other relevant factors as may be necessary to maintain the environmental, ecological, and agricultural qualities of the pinelands area.

(2) No pinelands development credit allocated to a parcel of land pursuant to P.L.1979, c. 111 (C.13:18A-1 et seq.) and the pinelands comprehensive management plan adopted pursuant thereto that is acquired or obtained in connection with the acquisition of the parcel for recreation and conservation purposes by the State, a local government unit, or a qualifying tax exempt nonprofit organization using constitutionally dedicated moneys in whole or in part may be conveyed in any manner. All such pinelands development credits shall be retired permanently.

d.

(Deleted by amendment, P.L.2010, c. 70)

e. Moneys appropriated from the fund may be used to match grants, contributions, donations, or reimbursements from federal aid programs or from other public or private sources established for the same or similar purposes as the fund.

f. Moneys appropriated from the fund shall not be used by local government units or qualifying tax exempt nonprofit organizations to acquire lands that are already permanently preserved for recreation and conservation purposes, as determined by the department.

g. Whenever lands are donated to the State by a public utility, as defined pursuant to Title 48 of the Revised Statutes, for recreation and conservation purposes, the commissioner may make and keep the lands accessible to the public, unless the commissioner determines that public accessibility would be detrimental to the lands or any natural resources associated therewith.

h. Whenever the State acquires land for recreation and conservation purposes, the agency in the Department of Environmental Protection responsible for administering the land shall, within six months after the date of acquisition, inspect the land for the presence of any buildings or structures thereon which are or may be historic properties and, within 60 days after completion of the inspection, provide to the New Jersey Historic Preservation Office in the department (1) a written notice of its findings, and (2) for any buildings or structures which are or may be historic properties discovered on the land, a request for determination of potential eligibility for inclusion of the historic building or structure in the New Jersey Register of Historic Places. Whenever such a building or structure is discovered, a copy of the written notice provided to the New Jersey Historic Preservation Office shall also be sent to the New Jersey Historic Trust and to the county historical commission or advisory committee, the county historical society, the local historic preservation commission or advisory committee, and the local historical society if any of those entities exist in the county or municipality wherein the land is located.

i.

(Deleted by amendment, P.L.2010, c. 70)

j. (1) Commencing on the date of enactment of P.L.2004, c. 120 (C.13:20-1 et al.) and through June 30, 2019 for lands located in the Highlands Region as defined pursuant to section 3 of P.L.2004, c. 120 (C.13:20-3), when the department, a local government unit, or a qualifying tax exempt nonprofit organization seeks to acquire lands for recreation and conservation purposes using constitutionally dedicated moneys in whole or in part or Green Acres bond act moneys in whole or in part, it shall conduct or cause to be conducted an appraisal or appraisals of the value of the lands that shall be made using (a) the land use zoning of the lands, and any State environmental laws or Department of Environmental Protection rules and regulations that may affect the value of the lands, subject to the appraisal and in effect at the time of proposed acquisition, and (b) the land use zoning of the lands, and any State environmental laws or Department of Environmental Protection rules and regulations that may affect the value of the lands, subject to the appraisal and in effect on January 1, 2004. The higher of those two values shall be utilized by the department, a local government unit, or a qualifying tax exempt nonprofit organization as the basis for negotiation with the landowner with respect to the acquisition price for the lands. The landowner shall be provided with both values determined pursuant to this paragraph.

A landowner may waive any of the requirements of this paragraph and may agree to sell the lands for less than the values determined pursuant to this paragraph.

The provisions of this paragraph shall be applicable only to lands the owner of which at the time of proposed acquisition is the same person who owned the lands on the date of enactment of P.L.2004, c. 120 (C.13:20-1 et al.) and who has owned the lands continuously since that enactment date, or is an immediate family member of that person.

(2) (Deleted by amendment, P.L. 2010, c. 70)

(3) The requirements of this subsection shall be in addition to any other requirements of law, rule, or regulation not inconsistent therewith.

(4) This subsection shall not:

(a) apply in the case of lands to be acquired with federal moneys in whole or in part;

(b) (Deleted by amendment, P.L.2010, c. 70); or

(c) alter any requirements to disclose information to a landowner pursuant to the “Eminent Domain Act of 1971,” P.L.1971, c. 361 (C.20:3-1 et seq.).

(5) For the purposes of this subsection, “immediate family member” means a spouse, child, parent, sibling, aunt, uncle, niece, nephew, first cousin, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepparent, stepchild, stepbrother, stepsister, half brother, or half sister, whether the individual is related by blood, marriage, or adoption.

k. The department shall adopt guidelines for the evaluation and priority ranking process which shall be used in making decisions concerning the acquisition of lands by the State for recreation and conservation purposes using moneys from the Garden State Green Acres Preservation Trust Fund and from any other source. The guidelines shall be designed to provide, to the maximum extent practicable and feasible, that such moneys are spent equitably among the geographic areas of the State. The guidelines, and any subsequent revisions thereto, shall be published in the New Jersey Register. The adoption of the guidelines or of the revisions thereto, shall not be subject to the requirements of the “Administrative Procedure Act,” P.L.1968, c. 410 (C.52:14B-1 et seq.).

l. In making decisions concerning the acquisition of lands by the State for recreation and conservation purposes using moneys from the Garden State Green Acres Preservation Trust Fund, in the evaluation and priority ranking process the department shall accord three times the weight to acquisitions of lands that would protect water resources, and two times the weight to acquisitions of lands that would protect flood-prone areas, as those criteria are compared to the other criteria in the priority ranking process.

m. The department, pursuant to the “Administrative Procedure Act,” P.L.1968, c. 410 (C.52:14B-1 et seq.), shall adopt rules and regulations that establish standards and requirements regulating any activity on lands acquired by the State for recreation and conservation purposes using constitutionally dedicated moneys to assure that the activity on those lands does not diminish the protection of surface water or groundwater resources.

Any rules and regulations adopted pursuant to this subsection shall not apply to activities on lands acquired prior to the adoption of the rules and regulations.

n. (1) The department, within three months after the date of the first meeting of the Highlands Water Protection and Planning Council established pursuant to section 4 of P.L.2004, c. 120 (C.13:20-4), shall consult with and solicit recommendations from the council concerning land preservation strategies and acquisition plans in the Highlands Region as defined in section 3 of P.L.2004, c. 120 (C.13:20-3).

The council’s recommendations shall also address strategies and plans concerning establishment by the department of a methodology for prioritizing the acquisition of land in the Highlands preservation area, as defined in section 3 of P.L.2004, c. 120 (C.13:20-3), for recreation and conservation purposes using moneys from the Garden State

Green Acres Preservation Trust Fund, especially with respect to (a) any land that has declined substantially in value due to the implementation of the "Highlands Water Protection and Planning Act," P.L.2004, c. 120 (C.13:20-1 et al.), and (b) any major Highlands development, as defined in section 3 of P.L.2004, c. 120 (C.13:20-3), that would have qualified for an exemption pursuant to paragraph (3) of subsection a. of section 30 of P.L.2004, c. 120 (C.13:20-28) but for the lack of a necessary State permit as specified in subparagraph (b) or (c), as appropriate, of paragraph (3) of subsection a. of section 30 of P.L.2004, c. 120 (C.13:20-28), and for which an application for such a permit had been submitted to the Department of Environmental Protection and deemed by the department to be complete for review on or before March 29, 2004. The recommendations may also include a listing of specific parcels in the Highlands preservation area that the council is aware of that meet the criteria of subparagraph (a) or (b) of this paragraph and for that reason should be considered by the department as a priority for acquisition, but any such list shall remain confidential notwithstanding any provision of P.L.1963, c. 73 (C.47:1A-1 et seq.) or any other law to the contrary.

(2) In making decisions concerning applications for funding submitted by municipalities in the Highlands planning area, as defined in section 3 of P.L.2004, c. 120 (C.13:20-3), to acquire or develop lands for recreation and conservation purposes using moneys from the Garden State Green Acres Preservation Trust Fund, in the evaluation and priority ranking process the department shall accord a higher weight to any application submitted by a municipality in the Highlands planning area that has amended its development regulations in accordance with section 13 of P.L.2004, c. 120 (C.13:20-13) to establish one or more receiving zones for the transfer of development potential from the Highlands preservation area, as defined in section 3 of P. L.2004, c. 120 (C.13:20-3), than that which is accorded to comparable applications submitted by other municipalities in the Highlands planning area that have not made such amendments to their development regulations.

*o.* Notwithstanding any provision of P.L.1999, c. 152 (C.13:8C-1 et seq.) to the contrary, for State fiscal years 2005 through 2009, the sum spent by the department in each of those fiscal years for the acquisition of lands by the State for recreation and conservation purposes using moneys from the Garden State Green Acres Preservation Trust Fund in each county of the State shall be not less, and may be greater if additional sums become available, than the average annual sum spent by the department therefor in each such county, respectively, for State fiscal years 2002 through 2004, provided there is sufficient and appropriate lands within the county to be so acquired by the State for such purposes.

### **13:8C-27. Grants and loans awarded to local governments**

a. (1) Any grant awarded by the State to a local government unit to acquire lands for recreation and conservation purposes shall be for 25% of the cost of acquisition, except that the trust may authorize an increase in the State's share of the cost to a maximum of 50% upon a demonstration of special need or exceptional circumstances.

(2) Notwithstanding the provisions of paragraph (1) of this subsection to the contrary:

(a) a grant by the State for lands acquired for recreation and conservation purposes by a qualifying open space referendum county or a qualifying open space referendum municipality shall be for 50% of the cost of acquisition of the lands by that county or municipality, except that the trust may authorize an increase in the State's share of the cost to a maximum of 75% upon a demonstration of special need or exceptional circumstances; and

(b) a grant by the State for lands acquired or developed for recreation and conservation purposes by a local government unit in a municipality eligible to receive State aid pursuant to P.L.1978, c. 14 (C.52:27D-178 et seq.) shall be for 50% of the cost of acquisition or development of the lands by the local government unit, except that the trust may authorize an increase in the State's share of the cost to a maximum of 75% upon a demonstration of

special need or exceptional circumstances.

b. A loan by the State for lands to be acquired or developed by a local government unit for recreation and conservation purposes may include up to 100% of the cost of acquisition or development of the lands by the local government unit, shall bear interest of not more than 2% per year, and shall be for a term of not more than 30 years for an acquisition project and not more than 20 years for a development project.

c. (1) A grant by the State for lands to be acquired or developed by a qualifying tax exempt nonprofit organization for recreation and conservation purposes may include up to 50% of the cost of acquisition or development of the lands by the qualifying tax exempt nonprofit organization.

(2) (a) No grant shall be made to a qualifying tax exempt nonprofit organization for a development project for recreation and conservation purposes on lands owned by a local government unit unless the local government unit is a co-applicant with the qualifying tax exempt nonprofit organization or has otherwise indicated its approval in writing of the proposed development project.

(b) A qualifying tax exempt nonprofit organization shall not use as its matching share of the cost of acquisition or development of lands for recreation and conservation purposes any constitutionally dedicated grant moneys or any grant moneys obtained from a Green Acres bond act.

(3) To qualify to receive a grant pursuant to this subsection, the board of directors or governing body of the applying tax exempt nonprofit organization shall:

(a) demonstrate to the commissioner that the organization qualifies as a charitable conservancy for the purposes of P.L.1979, c. 378 (C.13:8B-1 et seq.);

(b) demonstrate that the organization has the resources to match the grant requested;

(c) agree to make and keep the lands accessible to the public, unless the commissioner determines that public accessibility would be detrimental to the lands or any natural resources associated therewith;

(d) agree not to convey the lands except to the federal government, the State, a local government unit, or another qualifying tax exempt nonprofit organization, for recreation and conservation purposes; and

(e) agree to execute and donate to the State at no charge a conservation restriction pursuant to P.L.1979, c. 378 (C.13:8B-1 et seq.) on the lands to be acquired with the grant.

d. The local government unit or qualifying tax exempt nonprofit organization share of the cost of an acquisition of lands, if any, may be reduced (1) by the fair market value, as determined by the commissioner, of any portion of the lands to be acquired that have been donated to, or otherwise received without cost by, the local government unit or qualifying tax exempt nonprofit organization; or (2) in the case of a conveyance of the lands, or any portion thereof, to the local government unit or qualifying tax exempt nonprofit organization at less than fair market value, by the difference between the fair market value at the time of the conveyance and the conveyance price to the local government unit or qualifying tax exempt nonprofit organization.

e. Whenever a local government unit or qualifying tax exempt nonprofit organization acquires land for recreation and conservation purposes using constitutionally dedicated moneys in whole or in part, the local government unit or qualifying tax exempt nonprofit organization, shall, within six months after the date of acquisition, inspect the land for the presence of any buildings or structures thereon which are or may be historic properties and, within 60 days after completion of the inspection, provide to the New Jersey Historic Preservation Office in the Department of Environmental Protection (1) a written notice of its findings, and (2) for any buildings or structures which are or may be historic properties discovered on the land, a request for determination of potential eligibility for inclusion of the historic building or structure in the New Jersey Register of Historic Places. Whenever such a building or structure is discovered, a copy of the written notice provided to the New Jersey Historic Preservation Office shall also be sent to the New Jersey Historic Trust and to the county historical commission or advisory committee, the county historical society, the local historic preservation commission or advisory committee, and the local historical society if any of those entities exist in the county or municipality wherein the land is located.

### **13:8C-28. Eminent domain; limitations**

The State shall not use the power of eminent domain in any manner for the acquisition of lands by the State for recreation and conservation purposes using constitutionally dedicated moneys in whole or in part unless a concurrent resolution approving that use is approved by both Houses of the Legislature; except that, without the need for such a concurrent resolution, the State may use the power of eminent domain to the extent necessary to establish a value for lands to be acquired from a willing seller by the State for recreation and conservation purposes using constitutionally dedicated moneys in whole or in part.

### **13:8C-29. Constitutionally dedicated money; consequences of certain purchases**

a. (1) (a) To the end that municipalities may not suffer a loss of taxes by reason of the acquisition and ownership by the State of lands in fee simple for recreation and conservation purposes, or the acquisition and ownership by qualifying tax exempt nonprofit organizations of lands in fee simple for recreation and conservation purposes that become certified exempt from property taxes pursuant to P.L.1974, c. 167 (C.54:4-3.63 et seq.) or similar laws, using constitutionally dedicated moneys in whole or in part, the State shall pay annually on October 1 to each municipality in which lands are so acquired and owned, for a period of 13 years following an acquisition the following amounts: in the first year a sum of money equal to the tax last assessed and last paid by the taxpayer upon this land and the improvements thereon for the taxable year immediately prior to the time of its acquisition and thereafter the following percentages of the amount paid in the first year: second year, 92%; third year, 84%; fourth year, 76%; fifth year, 68%; sixth year, 60%; seventh year, 52%; eighth year, 44%; ninth year, 36%; 10th year, 28%; 11th year, 20%; 12th year, 12%; 13th year, 4%.

(b) Notwithstanding the provisions of subparagraph (a) of this paragraph to the contrary, any payment made pursuant to that subparagraph shall be not less than the amount that would be paid as provided pursuant to paragraph (2) of this subsection.

(2) After the 13th year, or sooner as provided pursuant to subparagraph (b) of paragraph (1) of this subsection, the State shall pay annually on October 1 to each municipality in which lands are so acquired and owned the following amounts: \$2 per acre of lands so acquired and owned for any municipality for which all lands owned in fee simple by the State or by a qualifying tax exempt nonprofit organization for recreation and conservation purposes constitute less than 20% of the total land area of the municipality; \$5 per acre of lands so acquired and owned for any municipality for which all lands owned in fee simple by the State or by a qualifying tax exempt nonprofit organization for recreation and conservation purposes constitute at least 20% but less than 40% of the total land area of the municipality; \$10 per acre of lands so acquired and owned for any municipality for which all lands owned in fee simple by the State or by a qualifying tax exempt nonprofit organization for recreation and conservation purposes constitute at least 40% but less than 60% of the total land area of the municipality; and \$20 per acre of lands so acquired and owned for any municipality for which all lands owned in fee simple by the State or by a

qualifying tax exempt nonprofit organization for recreation and conservation purposes constitute at least 60% of the total land area of the municipality.

b. In the event that land acquired by the State, a local government unit, a qualifying tax exempt nonprofit organization, or the Palisades Interstate Park Commission for recreation and conservation purposes was assessed at an agricultural and horticultural use valuation in accordance with provisions of the "Farmland Assessment Act of 1964," P.L.1964, c. 48 (C.54:4-23.1 et seq.) at the time of its acquisition by the State, local government unit, qualifying tax exempt nonprofit organization, or the Palisades Interstate Park Commission, no roll-back tax pursuant to section 8 of P.L.1964, c. 48 (C.54:4-23.8) shall be imposed as to this land nor shall this roll-back tax be applicable in determining the annual payments to be made pursuant to subsection a. of this section by the State to the municipality in which this land is located.

c. Any payments made by the State pursuant to this section shall be paid from the General Fund but not from constitutionally dedicated moneys.

d. All sums of money received by the respective municipalities as compensation for loss of tax revenue pursuant to this section shall be applied to the same purposes as is the tax revenue from the assessment and collection of taxes on real property of these municipalities, and to accomplish this end the sums shall be apportioned in the same manner as the general tax rate of the municipality for the tax year preceding the year of receipt.

e. For the purposes of this section, lands owned in fee simple by the State for recreation and conservation purposes shall mean State parks and forests, as defined pursuant to section 3 of P.L.1983, c. 324 (C.13:1L-3), State wildlife management areas, and any other lands owned in fee simple by the State and administered by the Department of Environmental Protection for recreation and conservation purposes.

### **13:8C-30. Non-constitutionally dedicated money; consequences of certain purchases**

a. With respect to lands acquired using any funding source other than constitutionally dedicated moneys, whether prior to the date of enactment of this act or thereafter, and owned in fee simple by the State or by a qualifying tax exempt nonprofit organization, and which lands are permanently preserved for recreation and conservation purposes, the State shall pay annually on October 1 to each municipality in which those lands are located the following amounts: \$2 per acre of lands so acquired and owned for any municipality for which all lands owned in fee simple by the State or by a qualifying tax exempt nonprofit organization for recreation and conservation purposes constitute less than 20% of the total land area of the municipality; \$5 per acre of lands so acquired and owned for any municipality for which all lands owned in fee simple by the State or by a qualifying tax exempt nonprofit organization for recreation and conservation purposes constitute at least 20% but less than 40% of the total land area of the municipality; \$10 per acre of lands so acquired and owned for any municipality for which all lands owned in fee simple by the State or by a qualifying tax exempt nonprofit organization for recreation and conservation purposes constitute at least 40% but less than 60% of the total land area of the municipality, and \$20 per acre of lands so acquired and owned for any municipality for which all lands owned in fee simple by the State or by a qualifying tax exempt nonprofit organization for recreation and conservation purposes constitute at least 60% of the total land area of the municipality.

b. In the event payments in lieu of taxes are due and payable from the State on those lands pursuant to another law, and those payments, if made by the State, would exceed those that would be paid pursuant to this section, the payments shall be made in accordance with the other law. In no case shall payments be made to a municipality in compliance with both this section and any other applicable law.



c. Any payments made by the State pursuant to this section shall be paid from the General Fund but not from constitutionally dedicated moneys.

d. All sums of money received by the respective municipalities as compensation for loss of tax revenue pursuant to this section shall be applied to the same purposes as is the tax revenue from the assessment and collection of taxes on real property of these municipalities, and to accomplish this end the sums shall be apportioned in the same manner as the general tax rate of the municipality for the tax year preceding the year of receipt.

e. For the purposes of this section, lands owned in fee simple by the State for recreation and conservation purposes shall mean State parks and forests, as defined pursuant to section 3 of P.L.1983, c. 324 (C.13:1L-3), State wildlife management areas, and any other lands owned in fee simple by the State and administered by the Department of Environmental Protection for recreation and conservation purposes.

### **13:8C-31. Constitutionally dedicated money; recreation and conservation land; acquisition by State**

Lands acquired or developed by the State for recreation and conservation purposes using constitutionally dedicated moneys in whole or in part shall not be conveyed, disposed of, or diverted to use for other than recreation and conservation purposes without the approval of the commissioner and the State House Commission established pursuant to R.S.52:20-1 et seq. Approval shall not be given unless the commissioner shall agree to pay an amount equal to or greater than the fair market value of the land at the time of the proposed conveyance, disposal, or diversion, as determined by the State House Commission, into the Garden State Green Acres Preservation Trust Fund; and the amount to be paid shall be determined also in accordance with the requirements of P.L.1993, c. 38 (C.13:1D-51 et seq.). Moneys so returned to that fund shall be deemed wholly a part of the portion of that fund available for the acquisition by the State of lands for recreation and conservation purposes as provided pursuant to this act.

### **13:8C-32. Constitutionally dedicated money; recreation and conservation land; acquisition by local government**

a. Lands acquired or developed by a local government unit or a qualifying tax exempt nonprofit organization for recreation and conservation purposes using constitutionally dedicated moneys in whole or in part shall not be conveyed, disposed of, or diverted to a use for other than recreation and conservation purposes without the approval of the commissioner and the State House Commission and following a public hearing held at least one month prior to those approvals. Approval of the commissioner and the State House Commission shall not be given unless the local government unit or qualifying tax exempt nonprofit organization agrees to (1) replace the lands with lands of equal or greater fair market value and of reasonably equivalent size, quality, location, and usefulness for recreation and conservation purposes, as approved by the commissioner, or (2) pay an amount equal to or greater than the fair market value of the lands, as determined by the commission, into the Garden State Green Acres Preservation Trust Fund. Moneys so returned to that fund shall be deemed wholly a part of the portion of that fund available for grants or loans to local government units or grants to qualifying tax exempt nonprofit organizations for the acquisition of lands for recreation and conservation purposes as provided pursuant to this act.

b. (1) A local government unit that receives a grant or loan for recreation and conservation purposes pursuant to this

act shall not convey, dispose of, or divert to a use for other than recreation and conservation purposes any lands held by the local government unit for those purposes at the time of receipt of the grant or loan without the approval of the commissioner and the State House Commission and following a public hearing held by the local government unit at least one month prior to those approvals. Approval of the commissioner and the State House Commission shall not be given unless the local government unit agrees to (a) replace the lands with lands of equal or greater fair market value and of reasonably equivalent size, quality, location, and usefulness for recreation and conservation purposes, as approved by the commissioner, or (b) pay an amount equal to or greater than the fair market value of the lands, as determined by the commission, into the Garden State Green Acres Preservation Trust Fund. Moneys so returned to that fund shall be deemed wholly a part of the portion of that fund available for grants or loans to local government units for the acquisition of lands for recreation and conservation purposes as provided pursuant to this act.

(2) (a) Except as provided pursuant to subparagraph (b) of this paragraph, paragraph (1) of this subsection shall not apply to lands included in a redevelopment plan adopted pursuant to section 7 of P.L.1992, c. 79 (C.40A:12A-7) that are being, or which have been, used for recreation and conservation purposes pending implementation of the redevelopment plan and the eventual use of those lands for other purposes in accordance with the redevelopment plan. Such lands, because of their use for recreation and conservation purposes, shall not be deemed to be part of any inventory of lands prepared for the purposes of administering or enforcing this section. The exception provided by this subparagraph shall apply only to lands not acquired or developed for recreation or conservation purposes with financial assistance in whole or in part provided by the State, the federal Land and Water Conservation Fund, 16 U.S.C. s.460l-4 et al., the federal "Urban Park and Recreation Recovery Act of 1978," 16 U. S.C. s.2501 et seq., or a county or local open space trust fund created pursuant to P.L.1997, c. 24 (C.40:12-15.1 et seq.).

(b) A municipality may adopt an ordinance specifically including the lands described in subparagraph (a) of this paragraph as part of any inventory of lands prepared for the purposes of administering or enforcing this section, in which case paragraph (1) of this subsection shall apply to those lands thereby included in the inventory. Any such ordinance shall cite to this subparagraph as authority for the ordinance.

(c) This paragraph shall apply only to redevelopment plans adopted pursuant to section 7 of P.L.1992, c. 79 (C.40A:12A-7) prior to July 18, 2002.

c. For the purposes of this section, "fair market value" shall mean the fair market value at the time of the proposed conveyance, disposal, or diversion.

### **13:8C-33. Lands held by local government**

a. For lands held by a local government unit for recreation and conservation purposes that were neither acquired nor developed for any of those purposes with any financial assistance from the State, and which have been included in an inventory of lands prepared for the purposes of complying with section 32 of this act, the local government unit may (1) change the recreation and conservation purpose for which the lands are being used to another recreation and conservation purpose, including but not limited to developing the lands for public outdoor recreation, or (2) construct a building or other structure on the lands for public indoor recreation, provided that the local government unit has held at least one public hearing on the proposed change in purpose or use at least 90 days prior to final approval thereof by the local government unit. Any action taken by a local government unit pursuant to this section shall not be deemed to be a conveyance, disposal, or diversion for the purposes of subsection b. of section 32 of this act.

b. The local government unit shall provide to the commissioner (1) at least 30 days' advance written notice of any public hearing to be held on any such change in purpose or use, (2) within 90 days after final approval of the change in purpose or use by the local government unit, written proof that any such public hearing was held, and (3) written notice of the change in purpose or use within 90 days after it has been effected.

### **13:8C-34. Conveyance of land held by local government**

a. A local government unit may convey lands held by the local government unit for recreation and conservation purposes to the federal government, the State, another local government unit, or a qualifying tax exempt nonprofit organization, provided that (1) the lands will continue to be preserved and used for recreation and conservation purposes, (2) any restrictions on the lands when they were held by the local government unit are maintained by the new owner, and (3) at least one public hearing on the proposed conveyance is held by the local government unit at least 90 days prior to final approval thereof by the local government unit.

b. The local government unit shall provide to the commissioner (1) at least 30 days' advance written notice of any public hearing to be held on any such conveyance, (2) within 90 days after final approval of the conveyance by the local government unit, written proof that any such public hearing was held, and (3) written notice of the conveyance within 90 days after it has been executed.

### **13:8C-35. Conveyance of land held by State**

a. No lands acquired or developed by the State for recreation and conservation purposes using constitutionally dedicated moneys in whole or in part may be conveyed except in accordance with the provisions of this act, P.L.1993, c. 38 (C.13:1D-51 et seq.), and any other applicable law.

b. No lands acquired or developed by a county for recreation and conservation purposes using constitutionally dedicated moneys in whole or in part may be conveyed except in accordance with the provisions of this act, P.L.1993, c. 36 (C.40A:12-13.5 et seq.), and any other applicable law.

c. No lands acquired or developed by a local government unit, other than a county, for recreation and conservation purposes using constitutionally dedicated moneys in whole or in part may be conveyed except in accordance with the provisions of this act and any other applicable law.

### **13:8C-36. Receipt of grant or loan by local government for certain land**

A local government unit that receives a grant or loan for recreation and conservation purposes pursuant to this act shall satisfactorily operate and maintain the lands acquired or developed pursuant to the conditions of the agreement between the local government unit and the department when the grant or loan is made. In the event that the local government unit cannot or will not correct deficiencies in the operation and maintenance within a reasonable time period, the commissioner may require the repayment of all or a portion of the grant or loan amount received by the local government unit.

**13:8C-37. Money appropriated from Farmland Preservation Trust Fund; use by the committee**

a. Moneys appropriated from the Garden State Farmland Preservation Trust Fund to the State Agriculture Development Committee for farmland preservation purposes shall be used by the committee to:

(1) Provide grants to local government units to pay up to 80% of the cost of acquisition of development easements on farmland, and to qualifying tax exempt nonprofit organizations to pay up to 50% of the cost of acquisition of development easements on farmland as provided in section 39 of this act, provided that any funds received for the transfer of a development easement shall be dedicated to the future purchase of development easements on farmland and the State's pro rata share of any such funds shall be deposited in the Garden State Farmland Preservation Trust Fund to be used for the purposes of that fund and provided that the terms of any such development easement to be acquired by a qualifying tax exempt nonprofit organization shall be approved by the committee;

(2) Provide grants to local government units to pay up to 80% of the cost of acquisition of fee simple titles to farmland from willing sellers only, and to qualifying tax exempt nonprofit organizations to pay up to 50% of the cost of acquisition of fee simple titles to farmland from willing sellers only as provided in section 39 of this act, which shall be offered for resale or lease with agricultural deed restrictions, as determined by the committee, and any proceeds received from a resale shall be dedicated for farmland preservation purposes and the State's pro rata share of any such proceeds shall be deposited in the Garden State Farmland Preservation Trust Fund to be used for the purposes of that fund;

(3) Pay the cost of acquisition by the State of development easements on farmland, provided that any funds received for the transfer of a development easement shall be deposited in the Garden State Farmland Preservation Trust Fund to be used for the purposes of that fund; and

(4) Pay the cost of acquisition by the State of fee simple titles to farmland from willing sellers only, which shall be offered for resale or lease with agricultural deed restrictions, as determined by the committee, and any proceeds received from a resale or lease shall be deposited in the Garden State Farmland Preservation Trust Fund to be used for the purposes of that fund.

b. Moneys appropriated from the fund may be used to match grants, contributions, donations, or reimbursements from federal aid programs or from other public or private sources established for the same or similar purposes as the fund.

**13:8C-38. Expenditures and allocations; farmland preservation**

a. All acquisitions or grants made pursuant to section 37 of P.L.1999, c. 152 (C.13:8C-37) shall be made with respect to farmland devoted to farmland preservation under programs established by law.

b. The expenditure and allocation of constitutionally dedicated moneys for farmland preservation purposes shall reflect the geographic diversity of the State to the maximum extent practicable and feasible.

c. The committee shall implement the provisions of section 37 of P.L.1999, c. 152 (C.13:8C-37) in accordance with the procedures and criteria established pursuant to the "Agriculture Retention and Development Act," P. L.1983, c. 32 (C.4:1C-11 et seq.) except as provided otherwise by this act.

d. The committee shall adopt the same or a substantially similar method for determining, for the purposes of this act, the committee's share of the cost of a development easement on farmland to be acquired by a local government as that which is being used by the committee on the date of enactment of this act for prior farmland preservation funding programs.

e. Notwithstanding the provisions of section 24 of P.L.1983, c. 32 (C.4:1C-31) or this act, or any rule or regulation adopted pursuant thereto, to the contrary, whenever the value of a development easement on farmland to be acquired using constitutionally dedicated moneys in whole or in part is determined based upon the value of any pinelands development credits allocated to the parcel pursuant to P.L.1979, c. 111 (C.13:18A-1 et seq.) and the pinelands comprehensive management plan adopted pursuant thereto, the committee shall determine the value of the development easement by:

(1) conducting a sufficient number of fair market value appraisals as it deems appropriate to determine the value for farmland preservation purposes of the pinelands development credits;

(2) considering development easement values in counties, municipalities, and other areas (a) reasonably contiguous to, but outside of, the pinelands area, which in the sole opinion of the committee constitute reasonable development easement values in the pinelands area for the purposes of this subsection, and (b) in the pinelands area where pinelands development credits are or may be utilized, which in the sole opinion of the committee constitute reasonable development easement values in the pinelands area for the purposes of this subsection;

(3) considering land values in the pinelands regional growth areas;

(4) considering the importance of preserving agricultural lands in the pinelands area; and

(5) considering such other relevant factors as may be necessary to increase participation in the farmland preservation program by owners of agricultural lands located in the pinelands area.

f. No pinelands development credit that is acquired or obtained in connection with the acquisition of a development easement on farmland or fee simple title to farmland by the State, a local government unit, or a qualifying tax exempt nonprofit organization using constitutionally dedicated moneys in whole or in part may be conveyed in any manner. All such pinelands development credits shall be retired permanently.

g. (Deleted by amendment, P.L.2010, c. 70)

h. Any farmland for which a development easement or fee simple title has been acquired pursuant to section 37 of P.L.1999, c. 152 (C.13:8C-37) shall be entitled to the benefits conferred by the "Right to Farm Act," P.L.1983, c. 31 (C.4:1C-1 et al.) and the "Agriculture Retention and Development Act," P.L.1983, c. 32 (C.4:1C-11 et al.).

i. (Deleted by amendment, P.L.2010, c. 70)

j. (1) Commencing on the date of enactment of P.L.2004, c. 120 (C.13:20-1 et al.) and through June 30, 2019 for lands located in the Highlands Region as defined pursuant to section 3 of P.L.2004, c. 120 (C.13:20-3), when the committee, a local government unit, or a qualifying tax exempt nonprofit organization seeks to acquire a development easement on farmland or the fee simple title to farmland for farmland preservation purposes using constitutionally dedicated moneys in whole or in part or Green Acres bond act moneys in whole or in part, it shall conduct or cause to be conducted an appraisal or appraisals of the value of the lands that shall be made using (a) the land use zoning of the lands, and any State environmental laws or Department of Environmental Protection rules and regulations that may affect the value of the lands, subject to the appraisal and in effect at the time of proposed acquisition, and (b) the land use zoning of the lands, and any State environmental laws or Department of Environmental Protection rules and regulations that may affect the value of the lands, subject to the appraisal and in effect on January 1, 2004. The higher of those two values shall be utilized by the committee, a local government unit, or a qualifying tax exempt nonprofit organization as the basis for negotiation with the landowner with respect to the acquisition price for the lands. The landowner shall be provided with both values determined pursuant to this paragraph.

A landowner may waive any of the requirements of this paragraph and may agree to sell the lands for less than the values determined pursuant to this paragraph.

The provisions of this paragraph shall be applicable only to lands the owner of which at the time of proposed acquisition is the same person who owned the lands on the date of enactment of P.L.2004, c. 120 (C.13:20-1 et al.) and who has owned the lands continuously since that enactment date, is an immediate family member of that person, or is a farmer as defined by the committee.

(2) (Deleted by amendment, P.L. 2010, c. 70)

(3) The requirements of this subsection shall be in addition to any other requirements of law, rule, or regulation not inconsistent therewith.

(4) This subsection shall not:

(a) apply in the case of lands to be acquired with federal moneys in whole or in part;

(b) (Deleted by amendment, P.L.2010, c. 70); or

(c) alter any requirements to disclose information to a landowner pursuant to the "Eminent Domain Act of 1971," P.L.1971, c. 361 (C.20:3-1 et seq.).

(5) For the purposes of this subsection, "immediate family member" means a spouse, child, parent, sibling, aunt, uncle, niece, nephew, first cousin, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepparent, stepchild, stepbrother, stepsister, half brother, or half sister, whether the individual is related by blood, marriage, or adoption.

k. The committee and the Department of Environmental Protection, pursuant to the "Administrative Procedure Act," P.L.1968, c. 410 (C.52:14B-1 et seq. ), shall jointly adopt rules and regulations that establish standards and requirements regulating any improvement on lands acquired by the State for farmland preservation purposes using constitutionally dedicated moneys to assure that any improvement does not diminish the protection of surface water

or groundwater resources.

Any rules and regulations adopted pursuant to this subsection shall not apply to improvements on lands acquired prior to the adoption of the rules and regulations.

*l.* (1) The committee, within three months after the date of the first meeting of the Highlands Water Protection and Planning Council established pursuant to section 4 of P.L.2004, c. 120 (C.13:20-4), shall consult with and solicit recommendations from the council concerning farmland preservation strategies and acquisition plans in the Highlands Region as defined in section 3 of P.L.2004, c. 120 (C.13:20-3).

The council's recommendations shall also address strategies and plans concerning establishment by the committee of a methodology for prioritizing the acquisition of development easements and fee simple titles to farmland in the Highlands preservation area, as defined in section 3 of P.L.2004, c. 120 (C.13:20-3), for farmland preservation purposes using moneys from the Garden State Farmland Preservation Trust Fund, especially with respect to farmland that has declined substantially in value due to the implementation of the "Highlands Water Protection and Planning Act," P.L.2004, c. 120 (C.13:20-1 et al.). The recommendations may also include a listing of specific parcels in the Highlands preservation area that the council is aware of that have experienced a substantial decline in value and for that reason should be considered by the committee as a priority for acquisition, but any such list shall remain confidential notwithstanding any provision of P.L.1963, c. 73 (C.47:1A-1 et seq.) or any other law to the contrary.

(2) In prioritizing applications for funding submitted by local government units in the Highlands planning area, as defined in section 3 of P.L.2004, c. 120 (C.13:20-3), to acquire development easements on farmland in the Highlands planning area using moneys from the Garden State Farmland Preservation Trust Fund, the committee shall accord a higher weight to any application submitted by a local government unit to preserve farmland in a municipality in the Highlands planning area that has amended its development regulations in accordance with section 13 of P.L.2004, c. 120 (C.13:20-13) to establish one or more receiving zones for the transfer of development potential from the Highlands preservation area, as defined in section 3 of P. L.2004, c. 120 (C.13:20-3), than that which is accorded to comparable applications submitted by other local government units to preserve farmland in municipalities in the Highlands planning area that have not made such amendments to their development regulations.

*m.* Notwithstanding any provision of P.L.1999, c. 152 (C.13:8C-1 et seq.) to the contrary, for State fiscal years 2005 through 2009, the sum spent by the committee in each of those fiscal years for the acquisition by the committee of development easements and fee simple titles to farmland for farmland preservation purposes using moneys from the Garden State Farmland Preservation Trust Fund in each county of the State shall be not less, and may be greater if additional sums become available, than the average annual sum spent by the department therefor in each such county, respectively, for State fiscal years 2002 through 2004, provided there is sufficient and appropriate farmland within the county to be so acquired by the committee for such purposes.

### **13:8C-38.1. Solicitation of farmland development easements and fee simple interests; methods to identify appropriate farmland**

*a.* To accomplish the expenditure provisions required pursuant to section 38 of P.L.1999, c. 152 (C.13:8C-38), and advance the preservation of important agricultural resources of the State, the State Agriculture Development Committee shall solicit, at least annually, applications for sale to the committee of development easements on farmland and fee simple interests in farmland. The committee shall utilize appropriate farmland resource data and information available to effectively identify and target farmland resources eligible for inclusion in the farmland preservation program.

b. The committee shall request, at least annually, the opinion of the respective county agriculture development boards regarding farmland that, in the opinion of each board, is appropriate and suitable for targeting and acquisition under the State development easement and fee simple acquisition programs in order to further and effectuate the goals and objectives of the respective county farmland preservation program.

c. The committee shall utilize the priority system, ranking criteria, and funding policies established by the committee pursuant to the “Agriculture Retention and Development Act”, P.L.1983, c. 32 (C.4:1C-11 et seq.) to identify, process, and preserve eligible farms through the farmland preservation program.

### **13:8C-38.2. Annual report of farms preserved and conservation grants received; recipients**

a. The State Agriculture Development Committee shall prepare and issue at least annually a report listing the farms preserved through the acquisition by the committee of development easements on farmland or the acquisition of fee simple interests in farmland using monies appropriated from the Garden State Farmland Preservation Trust Fund or any other source. The report also shall include a list of any farms that have received soil and water conservation grants from the State in the prior State fiscal year. The report shall identify each farm by name and provide the county and municipality in which it is located.

b. Each report shall be transmitted within 15 business days after its issuance to: (1) the President of the Senate; (2) the Speaker of the General Assembly; (3) the chairpersons of the Senate Economic Growth Committee and the Assembly Agriculture and Natural Resources Committee, or their successors as designated by the President of the Senate and the Speaker of the General Assembly, respectively; (4) the Garden State Preservation Trust established pursuant to section 4 of P.L.1999, c. 152 (C.13:8C-4); (5) the Highlands Water Protection and Planning Council established pursuant to section 4 of P.L.2004, c. 120 (C.13:20-4); and (6) the Pinelands Commission established pursuant to section 4 of P.L.1979, c. 111 (C.13:18A-4). Copies of each report shall also be made available to the public upon request and on the Internet website maintained by the State Agriculture Development Committee.

### **13:8C-39. Grants to qualifying organizations; development easements on farmlands**

a. The committee may provide a grant to a qualifying tax exempt nonprofit organization for up to 50% of the cost of acquisition of (1) a development easement on farmland, provided that the terms of any such development easement shall be approved by the committee, or (2) fee simple title to farmland, which shall be offered for resale or lease with an agricultural deed restriction, as determined by the committee, and any proceeds received from a resale shall be dedicated for farmland preservation purposes and the State’s pro rata share of any such proceeds shall be deposited in the Garden State Farmland Preservation Trust Fund to be used for the purposes of that fund.

b. The value of a development easement or fee simple title shall be established by two appraisals conducted on each parcel and certified by the committee. The appraisals shall be conducted by independent professional appraisers selected by the qualifying tax exempt nonprofit organization and approved by the committee from among members of recognized organizations of real estate appraisers.

c. The appraisals shall determine the fair market value of the fee simple title to the parcel, as well as the fair market value of the parcel for agricultural purposes. The difference between the two values shall represent an appraisal of the value of the parcel for nonagricultural purposes, which shall be the value of the development easement.



d. Any grant provided to a qualifying tax exempt nonprofit organization pursuant to this section shall not exceed 50% of the appraised value of the development easement, or of the fee simple title in the case of fee simple acquisitions, plus up to 50% of any costs incurred including but not limited to the costs of surveys, appraisals, and title insurance.

e. The appraisals conducted pursuant to this section or the fair market value of land restricted to agricultural use shall not be used to increase the assessment and taxation of agricultural land pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c. 48 (C.54:4-23.1 et seq.).

f. To qualify to receive a grant pursuant to this section, the applicant shall:

(1) demonstrate that it has the resources to match the grant requested; and

(2) in the case of the acquisition of a development easement, agree not to convey the development easement except to the federal government, the State, a local government unit, or another qualifying tax exempt nonprofit organization, for farmland preservation purposes.

g. (1) In deciding whether to award a grant to a qualifying tax exempt nonprofit organization pursuant to this section, the committee may also include as additional factors for consideration the presence of a historic building or structure on the land and the willingness of the landowner to preserve that building or structure, but only if the committee first adopts, pursuant to the "Administrative Procedure Act," P.L.1968, c. 410 (C.52:14B-1 et seq.), rules and regulations implementing this subsection. The committee may, by rule or regulation adopted pursuant to the "Administrative Procedure Act," assign any such weight it deems appropriate to be given to these factors.

(2) For the purposes of this subsection: "historic building or structure," in the context of the grant program for qualifying tax exempt nonprofit organizations to acquire development easements on farmland for farmland preservation purposes, means the same as that term is defined pursuant to subsection c. of section 2 of P.L.2001, c. 405 (C.13:8C-40.2); and "historic building or structure," in the context of the grant program for qualifying tax exempt nonprofit organizations to acquire fee simple titles to farmland for farmland preservation purposes, means the same as that term is defined pursuant to subsection c. of section 1 of P.L.2001, c. 405 (C.13:8C-40.1).

### **13:8C-40. Acquisition and retirement of development easements on farmlands**

a. The committee may acquire and permanently retire development easements on farmland.

b. The committee shall evaluate the suitability of the acquisition of a development easement based upon the eligibility criteria listed in section 24 of P.L.1983, c. 32 (C.4:1C-31) and any other criteria that may be adopted by the committee.

c. Appraisals to determine the fair market value of a development easement to be acquired by the committee shall be conducted by appraisers approved by the committee and in a manner consistent with the process set forth in subsection c. of section 24 of P.L.1983, c. 32 (C.4:1C-31).

d. Any development easement acquired by the committee shall be held of record in the name of the committee.

**13:8C-40.1. Historic building or structure located on certain farmland; historic preservation restrictions**

a. Notwithstanding any law, rule, or regulation to the contrary, whenever the State, a local government unit, or a qualifying tax exempt nonprofit organization acquires, for farmland preservation purposes using constitutionally dedicated moneys in whole or in part, the fee simple title to farmland which is to be offered for resale or lease with agricultural deed restrictions as determined by the committee, and there is an historic building or structure located on the farmland, the State, local government unit, or qualifying tax exempt nonprofit organization may, with the approval of the committee:

(1) place a historic preservation restriction on any historic building or structure on the farmland as a condition of the resale or lease of the farmland; or

(2) subdivide the historic building or structure, together with at least enough associated acreage to meet local zoning requirements, from the remaining portion of the farmland, and, after placing a historic preservation restriction upon the historic building or structure, offer the historic building or structure for resale or lease separately from the remaining portion of the farmland.

b. A historic preservation restriction may be placed on any historic building or structure on farmland as provided pursuant to subsection a. of this section even if the proceeds received from the resale or lease of the farmland or the historic building or structure would be less than otherwise would have been realized for use for farmland preservation purposes without the historic preservation restriction in place or the subdivision having been made.

c. For the purposes of this section:

“Historic building or structure” means a building or structure that:

(1) is included, meets the criteria for inclusion, or has been determined to be potentially eligible for inclusion in the New Jersey Register of Historic Places pursuant to P.L.1970, c. 268 (C.13:1B-15.128 et seq.) or any rules or regulations adopted pursuant thereto;

(2) has been recognized by a county or municipality as a place of historic interest in a county or municipal master plan;

(3) is located in a historic district on a municipal zoning map; or

(4) meets any other criteria which may be adopted by the committee, pursuant to the “Administrative Procedure Act,” P.L.1968, c. 410 (C.52:14B-1 et seq.), for recognizing the historical value or significance of a building or structure on farmland; and

“Historic preservation restriction” means the same as that term is defined pursuant to section 2 of P.L.1979, c. 378 (C.13:8B-2).

**13:8C-40.2. Historic buildings or structures located on certain farmland; demolition; rules and**

## **regulations**

a. No historic building or structure located on farmland for which a development easement has been acquired by the State, a local government unit, or a qualifying tax exempt nonprofit organization after one year from the date of enactment of this act for farmland preservation purposes using constitutionally dedicated moneys in whole or in part may be demolished by the landowner or any other person without the prior approval of the committee.

b. (1) The committee may institute a civil action in a court of competent jurisdiction to prohibit or prevent a violation of this section, and the court may proceed in the action in a summary manner. The committee may also seek damages and other appropriate relief for a violation of this section.

(2) The committee may, pursuant to the “Administrative Procedure Act,” P.L.1968, c. 410 (C.52:14B-1 et seq.), adopt rules and regulations providing for liquidated damages to be paid by the violator to the committee in the event of a violation of this section.

c. For the purposes of this section:

“Historic building or structure” means a building or structure that:

(1) is included in the New Jersey Register of Historic Places established pursuant to P.L.1970, c. 268 (C.13:1B-15.128 et seq.); or

(2) meets any other criteria which may be adopted by the committee, pursuant to the “Administrative Procedure Act,” P.L.1968, c. 410 (C.52:14B-1 et seq.), for recognizing the historical value or significance of a building or structure on farmland, and which criteria may include but need not be limited to (a) the building or structure having met the criteria for inclusion, or having been determined to be potentially eligible for inclusion, in the New Jersey Register of Historic Places pursuant to P.L.1970, c. 268 (C.13:1B-15.128 et seq.) or any rules or regulations adopted pursuant thereto; (b) recognition by a county or municipality of the building or structure as a place of historic interest in a county or municipal master plan; or (c) location of the building or structure in a historic district on a municipal zoning map; and

“Historic preservation restriction” means the same as that term is defined pursuant to section 2 of P.L.1979, c. 378 (C.13:8B-2).

### **13:8C-41. Money appropriated from Historic Preservation Trust Fund; use by New Jersey Historic Trust**

a. Moneys appropriated from the Garden State Historic Preservation Trust Fund to the New Jersey Historic Trust for historic preservation purposes shall be used by the New Jersey Historic Trust to provide grants to local government units or qualifying tax exempt nonprofit organizations to pay a portion of the cost of preservation of historic properties. Grants shall be awarded on a competitive basis based upon the following criteria:

(1) submission of specific plans and objectives for the preservation of the architectural and historical integrity of the project, including a statement of public benefit and the need for the work proposed;

(2) demonstration by the applicant of administrative capabilities to carry out the preservation plans required pursuant to paragraph (1) of this subsection;

(3) evidence of ability to meet the eligibility standards set forth in subsection b. of this section; and

(4) evidence that the historic property is and shall remain accessible to the public, or if it is not accessible to the public at the time of application, that it shall be made, and shall remain, accessible to the public.

b. To qualify to receive a construction grant pursuant to this section, the applicant shall:

(1) if not in ownership in fee simple of the property, obtain a valid lease of a term acceptable to the New Jersey Historic Trust within 18 months after the date of the appropriation by law of the moneys for the grant, or the grant for the project shall lapse into the Garden State Historic Preservation Trust Fund;

(2) certify that the property is an historic property and, if it is not listed in the New Jersey Register of Historic Places pursuant to P.L.1970, c. 268 (C.13:1B-15.128 et seq.), agree to list it in that register;

(3) demonstrate that it has the resources to match the grant requested;

(4) agree, if requested by the New Jersey Historic Trust, to execute and donate at no charge to the New Jersey Historic Trust or another entity designated by the New Jersey Historic Trust, an historic preservation restriction pursuant to P.L.1979, c. 378 (C.13:8B-1 et seq.) on the historic property; and

(5) in the case of a qualifying tax exempt nonprofit organization, agree not to convey the historic property to any person or organization that does not have tax exempt nonprofit or governmental status without the approval of the New Jersey Historic Trust.

c. Moneys raised within two years prior to the date of enactment of this act for ongoing historic preservation projects may be used by an applicant to meet the matching requirements of this section, but moneys raised prior thereto may not be used for that purpose.

d. No grant awarded pursuant to this section may exceed \$750,000.

e. Recipients of grants awarded pursuant to this section shall reflect the racial, ethnic, and geographic diversity of the State.

f. Any local government unit or qualifying tax exempt nonprofit organization awarded a grant pursuant to this section shall execute a contract between that entity and the New Jersey Historic Trust within 18 months after the date of the appropriation by law of the moneys for the grant, or the grant for the project shall lapse into the Garden State Historic Preservation Trust Fund.

g. The New Jersey Historic Trust shall establish an advisory committee composed of trustees of the New Jersey Historic Trust and other individuals with the requisite professional expertise to evaluate the grant applications submitted pursuant to this section and to advise the New Jersey Historic Trust on the merits of each application received.

h. Moneys appropriated from the fund may be used to match grants, contributions, donations, or reimbursements from federal aid programs or from other public or private sources established for the same or similar purposes as the fund.

### **13:8C-42. Rules and regulations**

a. The Department of Environmental Protection, the State Agriculture Development Committee, the New Jersey Historic Trust, and the Department of the Treasury shall each adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c. 410 (C.52:14B-1 et seq.), such rules and regulations as may be necessary to implement and carry out the goals and objectives of Article VIII, Section II, paragraph 7 of the State Constitution and this act.

b. Notwithstanding the provisions of any law to the contrary, any rules and regulations of the Department of Environmental Protection, the State Agriculture Development Committee, the New Jersey Historic Trust, and the Department of the Treasury that have been adopted pursuant to the "Administrative Procedure Act" and are in effect as of the date of enactment of this act, that are not inconsistent with the provisions of this act, and that pertain to the Green Acres, farmland preservation, and historic preservation programs continued pursuant to this act, shall continue in effect until amended or supplemented and readopted as necessary to reflect the provisions and requirements of Article VIII, Section II, paragraph 7 of the State Constitution and this act.

c. In order to implement the funding provisions provided for in this act, the State Treasurer, the Department of Environmental Protection, the State Agriculture Development Committee, the New Jersey Historic Trust, and the Garden State Preservation Trust are hereby authorized to enter into one or more contracts. The contracts shall commence in the State fiscal year beginning July 1, 1999, and provide for the credit to the Garden State Preservation Trust Fund Account in the amounts provided for in section 17 of this act and for the payment to the Garden State Preservation Trust of the amounts credited to the Garden State Preservation Trust Fund Account in accordance with the provisions of section 17 of this act. The contracts shall also provide for the payment by the Garden State Preservation Trust of the amounts provided for in section 18 of this act and for expenditures from the Garden State Green Acres Preservation Trust Fund, the Garden State Farmland Preservation Trust Fund, and the Garden State Historic Preservation Trust Fund, as provided in section 18 of this act. The contract or contracts shall be on terms and conditions as determined by the parties and may contain terms and conditions necessary and desirable to secure the bonds, notes and other obligations of the Garden State Preservation Trust, provided, however, that the incurrence of any obligation by the State under the contract or contracts, including any payments to be made thereunder from the Garden State Preservation Trust Fund Account, the Garden State Green Acres Preservation Trust Fund, the Garden State Farmland Preservation Trust Fund, or the Garden State Historic Preservation Trust Fund, as provided in sections 17, 19, 20, and 21 of this act, shall be subject to and dependent upon appropriations being made from time to time by the Legislature for the purposes of this act.

d. Within one year after the date of enactment of this act, the Department of Environmental Protection, the State Agriculture Development Committee, and the State House Commission established pursuant to R.S.52:20-1 et seq. shall conduct a study of the process by which easements are granted to public utilities, as defined in Title 48 of the Revised Statutes, on lands acquired for recreation and conservation purposes or for farmland preservation purposes, and prepare and submit to the Legislature a written report of the study findings together with any recommendations for legislative or administrative action that would improve that process. The agencies shall jointly hold at least one public hearing to receive testimony on the issue prior to preparation of the report.

[END OF GSPT]

September 2018